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L. Stuart Cunningham, Clerk  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BALLY MANUFACTURING CORPORATION, )  
)  
Plaintiff, )  
)  
vs. )  
)  
D. GOTTLIEB & CO., a corporation, )  
)  
and WILLIAMS ELECTRONICS, INC., a )  
)  
corporation, and ROCKWELL )  
)  
INTERNATIONAL CORPORATION, a )  
)  
corporation, )  
)  
Defendants. )

No. 78C 2246 ✓

BALLY MANUFACTURING CORPORATION, )  
)  
Plaintiff, )  
)  
vs. )  
)  
GAME PLAN INCORPORATED, )  
)  
Defendant. )

No. 79C 713 ✓

BE IT REMEMBERED that, pursuant to subpena and on Thursday, September 18, 1980, commencing at the hour of 10:40 a.m., at 2600 El Camino Real, Palo Alto, California, before me, WAYNE WALCOFF, a Certified Shorthand Reporter, License No. 4382, and a Notary Public in and for the County of San Mateo, State of California, personally appeared

RAYMOND M. HOLT  
who was called as a witness by plaintiff.

**OBUJEN & MCCUTCHEON**  
OFFICIAL REPORTERS & NOTARIES

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A P P E A R A N C E S

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For defendant McDOUGALL, HERSH & SCOTT, ESQS.  
Williams BY: WILLIAM T. RIFKIN, ESQ.  
Electronics: 135 South LaSalle Street  
Chicago, Illinois 60603

T S WITNESSES A DAYMOND

Q Where do you live now?

A 4402 Park Wilford Place

Q How long have you lived there?

A About three years.

Q Have you ever lived elsewhere?

A I don't know where he lived.

Q Have you ever known where he lived?

A No.

Q Are you employed?

A Yes.

Q By whom?

A Synertek Systems Corporation.

Q In what capacity?

A Vice-president of operations.

Q How long have you been employed by Synertek?

A Since Synertek purchased the company.

Q When was that?

A I guess it's been about a year.

Q Is Synertek a public company?

CORPORATION

RAYMOND M. HOLT

A. Yes.

Q. having first been duly sworn by the Notary

A. Public to tell the truth, the whole truth,

Q. and nothing but the truth, was thereupon

A. examined and testified as follows:

Q. Yes. EXAMINATION BY MR. WELSH

MR. WELSH: Q. Would you state your full name for the record, please? you own it with Mr. Lewis?

THE WITNESS: A. Raymond Mark Holt.

Q. Where do you live, Mr. Holt? existence

A. 4603 Park Milford Place, San Jose, California 95136.

Q. How long have you lived there?

A. About three years.

Q. Have you ever lived close to Dr. Tai, Philip Tai?

A. I don't know where he lives.

Q. Have you ever known where he lives? computer

Assoc. A. Yes? No.

Q. Are you employed? resident.

A. Yes. that throughout the existence of that company?

Q. By whom?

A. Synertek Systems Corporation.

Q. In what capacity?

A. Vice-president of engineering. computer Associates

Q. How long have you held that position? Harry and I

both A. I a Since Synertek purchased my previously owned company; I guess it's been almost three years now.

Q. Is Synertek a wholly-owned subsidiary of Honeywell



1 Corporation? Yes.

2 A. Yes. Before we get too far into the

3 Q. What was your previously owned company? you have

4 A. Microcomputer Associates. company, and we certainly

5 are Q. Were you the sole owner? Yes. But if Ray starts

6 A. Me, personally? you to know that we may have to

7 Q. Yes. Therefore, we ask for your cooperation

8 to Mr. A. it No. and as quickly and expeditiously as possible.

9 Q. Did you own it with Mr. Lemas? Not to do that.

10 A. Yes. was the business of Microcomputer Associates

11 when Q. was And when was that company in existence?

12 A. 8 W/74, 1974 through 1978. and education.

13 Q. When in 1974 was it formed? Computer Associates, a

14 that A. April 1st. relationship with Intel Corporation?

15 Q. And was it formed as a California corporation?

16 A. Yes. was that relationship?

17 Q. What position did you hold with Microcomputer  
18 Associates? What kinds of courses?

19 A. Executive vice-president, and hardware design

20 Q. Was that throughout the existence of that company?

21 A. Yes. that under written contract?

22 Q. What was Mr. Lemas's position? contract. I don't

23 A. President. It was almost on a course by course

24 Q. What were your duties with Microcomputer Associates?

25 A. Basically in charge of engineering. Manny and I  
26 both did a little bit of marketing, but he had programming and  
27 marketing. I had engineering and manufacturing. calling

28 Q. And you are referring to Manny Lemas?

1 A. Yes.

2 MR. HARDING: Before we get too far into the  
3 deposition, I'd like to make a brief statement. As you have  
4 observed, Ray has been sniffing and coughing, and we certainly  
5 are going to go as far as we can today. But if Ray starts  
6 feeling too badly, we'd like you to know that we may have to  
7 shorten the deposition. Therefore, we ask for your cooperation  
8 to move it forward as quickly and expeditiously as possible.

9 MR. WELSH: I will make every effort to do that.

10 Q. What was the business of Microcomputer Associates  
11 when it was first formed?

12 THE WITNESS: A. Consulting and education.

13 Q. In that business with Microcomputer Associates, did  
14 that company have any relationship with Intel Corporation?

15 A. Yes. Teaching of the

16 Q. What was that relationship?

17 A. We were under contract from Intel to teach courses.

18 Q. What kinds of courses?

19 A. Microcomputer programming and hardware design  
20 courses.

21 Q. Was that under written contract?

22 A. I don't think we had a formal contract. I don't  
23 remember ever seeing one. It was almost on a course by course  
24 basis, to my knowledge.

25 Q. How were you employed prior to the formation of  
26 Microcomputer Associates?

27 A. I was a consultant to a software firm called  
28 Compata.

1 Q. Were you an employee of Compata?

2 A. Yes, I had the title of consultant. That's what  
3 they called it.

4 Q. What did you do in that position?

5 A. Well, I was hired on to be a microcomputer hardware  
6 technical person. I ended up teaching courses for Compata,  
7 who was doing it for Intel.

8 Q. When did you start that work of teaching courses?

9 A. It would be probably early summer of '73.

10 Q. Did that continue until you and Mr. Lemas became  
11 associated with Microcomputer Associates?

12 A. Yes.

13 Q. Did you work at that full time?

14 A. At what?

15 Q. The teaching of the courses for Intel?

16 A. We had a few low periods between the courses.

17 Q. When did you start teaching the courses for Intel?

18 A. For Compata?

19 Q. Yes, for Compata.

20 A. I'm not sure when the first course actually started.  
21 It was around early summer of '73 when we were in preparation  
22 for the courses.

23 MR. WELSH: Let the record show that this deposition  
24 is being taken pursuant to notice and subpoena, a copy of which  
25 with return of service I ask the reporter to mark as Exhibit A.

26 (Whereupon the subpoena of Mr. Holt along with a  
27 return of service were marked Plaintiff's  
28 Exhibit Holt A for identification.)

1 MR. HARDING: Defendants do not agree with that  
2 statement. This deposition has been noticed perhaps by virtue  
3 of the document Mr. Welsh has made an exhibit. But it's being  
4 taken pursuant to an agreement between plaintiff Bally and  
5 defendants Gottlieb, Rockwell, and Williams in the Chicago  
6 litigation. The agreement is the basis for which this  
7 deposition is going forward.

8 MR. WELSH: Q. Did you receive a copy of this subpoena,  
9 Mr. Holt? Yes.

10 THE WITNESS: A. I Yes.

11 Q. Did it have this attachment, Exhibit A? answer,

12 A. Yes. answer that will satisfy both of us. His

13 Q. Are you represented by counsel here today?

14 A. Yes. understood that Honeywell was going to

15 Q. Who is your counsel?

16 A. These two gentlemen here. the witness to testify.

17 Q. Both Mr. Harding and Mr. Rifkin? what again.

18 A. Yes. Q. Would you explain what your understand-

19 Q. Are they representing you personally?

20 A. Yes. A. Sure. Earlier the previous day and

21 Q. Are they also representing you on behalf of  
22 Synertek? and he did not feel that Honeywell needed to

23 A. No. on their behalf. It was my understanding that

24 Q. When did they become your counsel for this  
25 deposition? that were

26 A. This morning. representation for you by Mr. Harding and

27 Q. Did you have any understanding with them prior to  
28 this morning about their representation of you?

1 A. At this deposition? represent you?

2 Q. Yes.

3 A. No. they suggest that they represent you?

4 Q. Do you recall a telephone conversation with me  
5 yesterday afternoon? have any discussions regarding compensation  
6 them A. Yes. representing you?

7 Q. In that conversation, did you tell me that you did  
8 not expect to be represented today? ending with respect to

9 A. Yes. as for representing you?

10 MR. RIFKIN: I would like to voir dire the witness on  
11 this point. If you will permit him to explain that answer,  
12 you will get an answer that will satisfy both of us. His  
13 answer to your question on the telephone was directed to  
14 whether or not he understood that Honeywell was going to  
15 provide legal counsel for him.

16 MR. WELSH: Well, I prefer the witness to testify.

17 MR. RIFKIN: I'm sorry, I won't do that again.

18 MR. WELSH: Q. Would you explain what your understand-  
19 ing was of our telephone conversation? is in this last question.

20 THE WITNESS: A. W Sure. Earlier the previous day and  
21 that day with Mr. Lemas, we both had been in conversation with  
22 Mr. Neils, and he did not feel that Honeywell needed to  
23 provide counsel on their behalf. It was my understanding that  
24 that's what you are asking, because of the documents that were  
25 involved. HARDING: That's right. Of course, I, as a

26 Q. But the representation for you by Mr. Harding and  
27 Mr. Rifkin commenced this morning?

28 A. Yes. Q. When did that representation commence?

1 Q. Did you ask them to represent you?

2 A. No. Is there more specific, please?

3 Q. Did they suggest that they represent you?

4 A. Yes. Perhaps you want to answer this,

5 Q. Did you have any discussions regarding compensating  
6 them for representing you? an expert to assist us in this

7 A. No. It is the capacity. He is an expert who may or

8 Q. Did you have any understanding with respect to...  
9 compensating them for representing you? Discuss with

10 A. No. Mr. Raikin about questions that might be asked

11 Q. Do you expect to compensate them?

12 A. No. Yes.

13 Q. Have you had, prior to this morning, any other  
14 relationship with Mr. Harding?

15 A. Yes. Was the substance of the discussions?

16 Q. What other relationship? the one of expert on no

17 MR. HARDING: Mr. Welsh, I am going to answer that  
18 question, because it's a legal relationship. We have retained  
19 Mr. Holt as an expert to consult with us in this litigation.

20 MR. WELSH: Who do you mean by "we"?

21 MR. HARDING: Defendant Williams and defendant Rockwell  
22 and defendant Gottlieb.

23 MR. WELSH: So the retention has been by them  
24 rather than by your law firm? I recall what they were.

25 MR. HARDING: That's right. Of course, the various  
26 law firms represent the parties named, as you well know by  
27 this date. What do you mean by applications?

28 MR. WELSH: Q. When did that relationship commence?

1 THE WITNESS: A. Early 1980.

2 Q. Could you be more specific, please?

3 A. I'd say late January.

4 MR. WELSH: Perhaps you want to answer this,  
5 Mr. Harding. In what capacity, as an expert?

6 MR. HARDING: As an expert to assist us in this  
7 litigation. That is the capacity. He is an expert who may or  
8 may not be expected to give testimony as a witness at trial.

9 MR. WELSH: Q. Have you had any discussions with  
10 Mr. Harding or Mr. Rifkin about questions that might be asked  
11 of you at this deposition?

12 THE WITNESS: A. Yes.

13 Q. When did you have those discussions?

14 A. This morning.

15 Q. What was the substance of those discussions?

16 A. I was told that whatever the line of questioning  
17 is, be sure that what I say is factual and true.

18 Q. Anything else?

19 A. I was asked several questions on whether I was  
20 familiar with certain types of applications.

21 Q. Anything else?

22 A. No.

23 Q. What were those applications?

24 A. I don't think I can recall what they were.

25 Q. But they did specify certain applications?

26 A. Approximately five applications I was asked.

27 Q. What do you mean by applications?

28 A. Uses of microcomputers.



1 Q. Did they relate the questions with respect to the  
2 applications to any particular time period?

3 A. The time period during when I taught the courses.

4 Q. And those were the courses that you started  
5 preparing for in 1973 as an employee of Compata?

6 A. Not that specific; just teaching of courses in  
7 general. and I think there was one I wasn't familiar with

8 Q. What time period was that?

9 A. The overall time period would be early summer of  
10 '73 to the end of summer 1974. That's the time period when I  
11 taught courses.

12 Q. That was for Compata?

13 A. And Microcomputer Associates.

14 Q. Did you teach any courses beyond early summer of  
15 '74? Rifkin and Mr. Harding?

16 A. Yes. approximately 7:30.

17 Q. And how long did you continue to teach courses?

18 A. I believe we actually taught courses through  
19 October, maybe November of 1974. These were not necessarily  
20 public courses, but specialized in-house courses.

21 Q. For Intel?

22 A. Some may have been. Manny and I also got a few  
23 on our own. They became very scattered as it got near the end  
24 of the year. Yes.

25 Q. Do you recall the substance of what you told  
26 Mr. Harding and Mr. Rifkin about the applications?

27 A. I'm not sure what you mean. I had any discussion  
28 with Q. Well, I believe you stated in discussions this



1 morning that Mr. Harding and Mr. Rifkin asked you about your  
2 familiarity with certain applications.

3 A. Yes. ~~he~~ phone either last week or the week before.

4 Mr. Q. And my question to you is, what was the substance  
5 of what you told them? ~~relevant material as it related to~~

6 A. I believe I said four out of the five I was ~~own~~  
7 familiar with, and I think there was one I wasn't familiar with  
8 during the time frame. ~~more than one telephone conversation~~

9 Q. Do you remember any of the five? ~~deposition on?~~

10 A. Normally, I would, but my head is not very clear,  
11 I'm sorry.

12 Q. You do not remember any? ~~word will be clear; I did~~

13 A. No. ~~position clearing the date of today with Mr. Holt~~

14 Q. At what time did you have your discussions with  
15 Mr. Rifkin and Mr. Harding? ~~agreement was reached on this~~

16 A. Approximately 7:30. ~~with Mr. Holt.~~

17 Q. And how long did the discussions continue? ~~on~~

18 A. Twenty minutes to half an hour. ~~phone conversation~~

19 Q. Was there a discussion of any other subject matter  
20 in connection with this deposition this morning?

21 A. No. ~~with whom did you have that conversation or~~

22 Q. So you only discussed the familiarity with certain  
23 applications? ~~Mr. Harding.~~

24 A. Yes. ~~many such conversations did you have?~~

25 Q. And the instructions about answering questions?

26 A. Yes. ~~did that occur?~~

27 Q. Had you, prior to this morning, had any discussion  
28 with Mr. Harding or Mr. Rifkin regarding this deposition? ~~on?~~

1 A. In what respect?

2 Q. In any respect. In discussion with Mr. Harding and

3 Mr. A. On the phone either last week or the week before,  
4 Mr. Harding told me that there was an agreement made between  
5 the two parties that only relevant material as it related to  
6 Tai would be talked about, and I was looking through my own  
7 material to pull that type of material out.

8 Q. Did you have more than one telephone conversation  
9 with Mr. Harding in which you discussed this deposition?

10 A. I don't think so. We may have, but I don't think  
11 so. I think off, and I would say yes or no. We did not go into

12 any MR. HARDING: Just so the record will be clear, I did  
13 set up this deposition clearing the date of today with Mr. Holt  
14 and his availability as soon as you had indicated you wanted to  
15 take his deposition, and an agreement was reached on this  
16 subject. The date was cleared with Mr. Holt.

17 to an MR. WELSH: Q. Have you had any discussions with  
18 Mr. Harding or Mr. Rifkin prior to that telephone conversation  
19 about Dr. Tai? these applications," and I think I

20 THE WITNESS: Q. A. Yes. He said, "Are you familiar with them?"  
21 today Q. And with whom did you have that conversation or  
22 conversations? A. No, I think I don't know who he was talking to.

23 A. Mr. Harding. I was teaching at the time.

24 Q. How many such conversations did you have?  
25 A. Just one that I can remember.

26 Q. When did that occur?

27 A. One to two months ago.

28 Q. And how did it occur, by telephone or in person?

1 A. By telephone.

2 Q. When you had your discussion with Mr. Harding and  
3 Mr. Rifkin this morning with regard to certain applications of  
4 microprocessors, which they mentioned, did the discussion  
5 include any question about your general recollection with  
6 respect to applications?

7 A. It was a general question.

8 Q. And did you have an answer to the general question  
9 about -- what was the general question?

10 A. If I was familiar with these applications, and he  
11 named them off, and I would say yes or no. We did not go into  
12 any of them.

13 Q. Do you remember the question more specifically,  
14 what they said to you?

15 MR. HARDING: I think, Mr. Welsh, this is the third  
16 time generally you've asked that, and perhaps the witness wants  
17 to answer it a third time.

18 THE WITNESS: I believe Terry said, "Ray, are you  
19 familiar with these applications," and read them off.

20 MR. WELSH: Q. Did he say, "Are you familiar with them"  
21 today?

22 THE WITNESS: A. No, I think I testified earlier that  
23 during the time frame when I was teaching courses.

24 Q. Is it correct then that the question was, do you  
25 remember being familiar with the applications at the time of your  
26 courses?

27 MR. HARDING: I object, Mr. Welsh, to that question.  
28 He has testified he did not recall specifically the language of

1 the question, and now you gave him a very specifically worded  
2 question. Now, do you mean, was the general substance of the  
3 question, was it to that effect?

4 MR. WELSH: Fine. I'm just trying to help him  
5 remember what the discussion was this morning.

6 MR. HARDING: Right, he has given you that recollection.  
7 If you want to word it to the substance of the question, fine.

8 MR. WELSH: Q. Was the substance of the question that  
9 Mr. Rifkin asked you whether you today have a recollection of  
10 familiarity with those applications during the time of your  
11 courses?

12 THE WITNESS: A. Yes, of whether I was familiar with  
13 them back then, not familiar with them today.

14 Q. Did they ask you in substance whether you  
15 remembered discussing any of those applications with Dr. Tai?

16 A. I don't remember that.  
17 Q. You don't remember whether they asked you that  
18 question this morning?

19 A. Correct.  
20 Q. They only asked you in substance the recollection  
21 today of familiarity with those applications during the time  
22 of your courses?

23 A. Correct.

24 Q. With respect to that question and answer, when you  
25 said, "I don't remember," did you mean you didn't remember  
26 whether they asked you the question this morning, or you  
27 didn't remember whether you had discussions with Dr. Tai?

28 A. The answer would be no, they did not ask that

1 question.

2 Q. You do remember they did not ask that question?

3 A. Right.

4 Q. When they did ask you questions about the five  
5 specific applications, did you recall any other applications  
6 with which you were familiar at the time of the courses?

7 A. No.

8 Q. And is your answer still the same even though you  
9 didn't discuss them this morning?

10 A. I don't understand.

11 Q. I'll rephrase the question. In the discussions  
12 or during the discussion this morning, did any applications  
13 other than those five that they named come to your mind even  
14 though you didn't discuss them with Mr. Harding and Mr. Rifkin?

15 A. No.

16 Q. And is it correct that they did not ask you about  
17 your recollection of any other applications than those five?

18 A. Right.

19 Q. Did you have any discussion with Mr. Harding  
20 prior to today about Dr. Tai other than the telephone  
21 conversation you mentioned a month or two ago?

22 A. I'm sure between January and June, his name  
23 probably came up at least once.

24 MR. HARDING: I will instruct the witness not to  
25 speculate.

26 MR. WELSH: Q. Was the telephone conversation a month  
27 or two ago specifically with respect to Dr. Tai?

28 THE WITNESS: A. Let me correct myself. It may have been

1 less than a month ago. It was when I was told that Dr. Tai  
2 had signed an affidavit. My time frame may be off.

3 Q. How long did that telephone conversation take  
4 place?

5 A. Length of time of the conversation?

6 Q. Yes.

7 A. Approximately five minutes.

8 Q. Give me the substance of your conversation with  
9 Mr. Harding, please.

10 A. I was told that Dr. Tai had signed an affidavit.  
11 The affidavit was read to me over the phone. I was asked what  
12 I thought of it. I mentioned that I did not think that that  
13 was accurate, and that was the essence of the conversation.

14 Q. Did you understand the affidavit when it was read  
15 to you?

16 A. I felt I did, yes.

17 Q. What did you find to be inaccurate in the affidavit?

18 A. Mainly the fact that Dr. Tai implied that he had  
19 numerous conversations with me, which is absolutely not true.

20 Q. Any other inaccuracies that you recall?

21 A. Probably the most glaring was -- well, he said in  
22 the affidavit that he believed that he had told me specific  
23 pinball information, and he definitely did not tell me any  
24 pinball information nor anything related.

25 MR. WELSH: A. Could I have that answer read back?

26 (Whereupon the reporter read back the previous answer.)

27 MR. WELSH: Q. What do you mean by definitely he had  
28 not told you any pinball information?

1 THE WITNESS: A. I mean he did not tell me.

2 Q. You mean you have no recollection of that?

3 A. No, he did not tell me.

4 Q. You are very certain of that?

5 A. Yes.

6 Q. What is the basis of your certainty?

7 A. Because I have a personal interest in pinball, and  
8 had I been told, I would have remembered it. I like the game.  
9 I would have remembered.

10 Q. Do you mean that you had a personal interest in  
11 pinball at the time the courses were given?

12 A. No, just myself, I've always had an interest in  
13 the strategy of pinball games, and how they work the scoring.  
14 Had Dr. Tai mentioned the application of pinball to me,  
15 especially as it relates to microcomputers, I would have  
16 definitely remembered that.

17 Q. Is it possible that he could have discussed it  
18 with you, and you don't remember?

19 A. No.

20 Q. Did you ever discuss any applications of micro-  
21 processors with him?

22 MR. HARDING: Is there a time frame?

23 MR. WELSH: During the time that he was teaching the  
24 courses.

25 THE WITNESS: A. I cannot say definitely.

26 MR. WELSH: Q. You have no recollection of his  
27 discussing any applications with you?

28 THE WITNESS: A. Correct.



1 Q. Do you recall during that time period any  
2 familiarity with credit card machines for TRW?

3 A. I interviewed with TRW before I moved up in this  
4 area. I knew what they were working on. In that respect,  
5 I knew TRW.

6 Q. Do you recall any consideration of such applications  
7 in connection with the courses which you taught in '73 or '74?

8 MR. RIFKIN: I object to the question as indefinite;  
9 considerations by whom? You've left that off.

10 MR. WELSH: By him.

11 THE WITNESS: A. We did not teach a specific  
12 application in a course. I know that Intel listed credit card  
13 machines in one of their advertisements as an application of  
14 microcomputers. Our courses were not designed to take a full  
15 application. We took application techniques. We do not have  
16 time to go into a full -- so there was no reason to have --

17 MR. WELSH: Q. Did you refer to different applica-  
18 tions at all in preparing for your courses?

19 THE WITNESS: A. I didn't.

20 Q. And you don't recall discussing any applications  
21 with Dr. Tai?

22 A. No.

23 Q. Do you recall discussing with Dr. Tai the use of  
24 matrix multiplexing with microprocessors?

25 A. That information was in the Intel manual. I do not  
26 recall talking to Dr. Tai about it. Most likely I would not  
27 have, because it was in the manual.

28 Q. Did you have any interest in microprocessor



1 applications during the time of teaching of the course?

2 A. Yes.

3 Q. What was that?

4 A. What was my interest?

5 Q. Yes.

6 A. Process control.

7 Q. Did you have occasion to consider different applica-  
8 tions at that time?

9 A. In preparing for the course?

10 Q. In connection with anything, not limited to the  
11 course.

12 A. We were involved as consultants besides teaching  
13 the courses. So we would go in and help customers design  
14 microcomputers around their particular application. So in  
15 that respect, yes.

16 Q. Did you consult with personnel of Intel with respect  
17 to such applications?

18 A. No.

19 Q. Do you recall ever considering any application in  
20 which incandescent lamps were connected in a matrix multiplexed  
21 with the microcomputer?

22 MR. HARDING: Is there a time frame, Mr. Welsh?

23 MR. WELSH: During this time period.

24 THE WITNESS: A. No.

25 MR. HARDING: That's the early formative stages of  
26 a lecture series?

27 MR. WELSH: This period is during the period of 1973  
28 and 1974.

1 MR. WELSH: Q. Did you understand that to be  
2 the time frame?

3 THE WITNESS: A. Yes.

4 for Q. Did you ever discuss with Dr. Tai any outside  
5 consulting job?

6 A. No.

7 Q. Did you ever discuss with him any problems that  
8 you had with any outside consulting job?

9 A. No.

10 Q. Did you ever discuss with Dr. Tai any problems which  
11 might arise with respect to multiplexing or using a micro-  
12 processor and multiplexing incandescent lamps in a matrix?

13 A. No.

14 Q. You don't have any recollection about problems  
15 such as voltage or current problems?

16 A. I'm sure I did not talk to him about that. I would  
17 not have asked him about that. I would have solved it myself.  
18 I've been involved in multiplexing since '68 with computers.  
19 So there wouldn't have been a question about that.

20 Q. Were you aware as to whether Dr. Tai during that  
21 period, 1973 to 1974, ever made calls on customers of Intel?

22 A. I'm sure he did.

23 Q. Were you aware of it directly?

24 A. No.

25 Q. Did you ever discuss any applications with him of  
26 Intel customers without the customers being named?

27 A. I don't recall.

28 Q. When did you first meet Dr. Tai?

1 A. It must have been early summer of '73.

2 Q. And what were the circumstances of your meeting?

3 A. When I first went into Compata or went into Intel  
4 for Compata with Mr. Lemas, Mr. Lemas introduced me to the  
5 staff of Intel, and Mr. Tai was on the staff at that time.

6 Q. Did he have anything to do with the courses at that  
7 time?

8 A. When I first joined Compata, I don't think he did.  
9 I think Mr. Hank Smith and Mr. Hal Feeney pretty well instructed  
10 Mr. Lemas on what to teach.

11 Q. They didn't teach you also?

12 A. They didn't do anything.

13 Q. Did you meet with them personally?

14 A. When they thought we charged them too much money.  
15 They gave us very little help in the courses. They were so  
16 busy on their own job, that it was just not in them to take  
17 the time to -- we had a job to do. We were to do it. If we  
18 had questions, we'd either dig it out or find a technician.

19 Q. Do you know what Dr. Tai's position was when you  
20 first met him?

21 A. Not when I first met him. I had learned later on  
22 maybe by the end of the summer that he was in charge of  
23 engineering or the board design.

24 Q. Were you told whether he had any responsibility with  
25 respect to the courses?

26 A. Certainly by the end of the summer. I think after  
27 Mr. Hank Smith left, who was in charge of the microcomputer  
28 group, I believe that's the time that Phil was given the course

1 responsibility.

2 Q. And when did that occur, to your knowledge?

3 A. No sooner than late '73 and toward the end of '73.

4 Q. When was the first course given?

5 A. Summer of 1973.

6 Q. Did you start giving the courses immediately when  
7 you started the preparation of them?

8 A. No. I think we prepared for a month or two, and  
9 then we gave an in-house course for some Intel people, the  
10 sales reps, and then we went off to do public courses.

11 Q. Do you remember when the first public course was?

12 A. I can't remember, but Intel documented with fliers  
13 all of their courses. I believe one of the exhibits from my  
14 last deposition indicated that.

15 Q. The time of the first course?

16 A. I believe so.

17 Q. Among some documents that you produced this morning  
18 is a brochure which is similar to an exhibit which was marked  
19 as GD214. I'm not sure whether it was in your deposition or  
20 not. Is Exhibit 214 the brochure you were referring to?

21 A. Yes.

22 Q. May we mark and retain one of these copies of this  
23 brochure as an exhibit?

24 A. Yes.

25 MR. HARDING: Mr. Welsh, I think at this point it  
26 would be appropriate to indicate that any and all documents  
27 that have been presented here today were presented via the  
28 instruction of corporate counsel for Honeywell, Mr. Neils, and

1 whatever permission Mr. Holt gives in this regard I presume is  
2 given with his authority. We are not representing Honeywell  
3 in its documents and its document production. So I'm just  
4 advising the witness that he consider his relationship with  
5 his counsel in that regard. was. Intel made those brochures

6 after MR. WELSH: sub. I'd like the reporter to mark this  
7 brochure as Plaintiff's Exhibit Holt B. (Whereupon an Intel brochure was  
8 and have taught me or two marked Plaintiff's Exhibit Holt  
9 course. This brochure was a B for identification.)

10 MR. HARDING: To further supplement my last statement,  
11 our representation is based on our retention of Mr. Holt as an  
12 expert. As you can see, we have very few objections to the  
13 actual inquiries you are making even though they borderline  
14 on whether they are in the understanding of the scope of this  
15 deposition. were the participants in the prior public courses

16 MR. WELSH: a fee? Q. This Exhibit B on the outer front  
17 cover contains some dates, and there is no year given. Is it  
18 correct that in your previous deposition given in the one suit,  
19 Bally vs. Gottlieb, et al., you testified that the year in  
20 which those months and dates were given was 1973? when these

21 THE WITNESS: A. Yes.

22 MR. HARDING: Are you asking, Mr. Welsh, for his  
23 confirmation of his earlier testimony or his present recollec-  
24 tion as of these dates. If you are asking for his confirmation  
25 of his earlier testimony, I suggest you give him a copy of  
26 his earlier testimony. to a number of different courses, and

27 MR. WELSH: that the Q. Is it correct that the year was  
28 1973?

1 THE WITNESS: A. This brochure represented the  
2 course as taught in 1973.

3 Q. Is October 1 to 3 the dates of the first public  
4 course?

5 A. I don't think it was. Intel made these brochures  
6 after a few courses. We had the in-house courses, as I mentioned,  
7 and I believe they did a mailing to their local mailing list,  
8 and may have taught one or two others just as like a prototype  
9 course. This brochure was a result of the first big advertise-  
10 ment for the course. I can recall that not being the first  
11 course I taught.

12 Q. Were participants in the course that is advertised  
13 in this brochure required to pay a fee, to your knowledge?

14 A. Yes.

15 Q. Were the participants in the prior public courses  
16 required to pay a fee; do you know?

17 A. Except the ones for in-house personnel.

18 Q. That's Intel personnel?

19 A. Intel personnel, yes.

20 Q. Was Dr. Tai involved with the courses when these  
21 first public pay courses were given?

22 MR. HARDING: I object to the question. It's vague,  
23 what involvement means. If you want him to answer as to  
24 specific involvement, then I have no objection to the question.

25 MR. RIFKIN: I further object, Mr. Welsh, because  
26 that brochure relates to a number of different courses, and  
27 I would prefer that the witness answers as to each particular  
28 course.

1 MR. WELSH: Q. You may answer the question.

2 MR. HARDING: Q. Do you remember the question?

3 THE WITNESS: A. No, would you repeat it?

4 (Whereupon the reporter read back the previous question.)

5 THE WITNESS: A. Yes.

6 MR. WELSH: Q. What was his involvement?

7 THE WITNESS: A. It was more of a business involve-  
8 ment with us as consultants. Mr. Lemas had a much closer  
9 involvement with Mr. Tai, and it appeared to me strictly  
10 business.

11 Q. Did you ever meet with Dr. Tai in discussing what  
12 would be taught in these courses which are the subject of  
13 Exhibit B? As far as specifically on the content of the course

14 A. I may have, but not likely. That's the detail that  
15 I can't recall. In that respect, we would

16 Q. Did you meet with anybody else at Intel regarding  
17 the subject matter of those courses?

18 A. Yes. At you began the public courses for fees in

19 Q. With whom did you meet? The courses change?

20 A. Mr. Bob Garrow.

21 Q. How do you spell Garrow? With Intel personnel

22 A. G-a-r-r-o-w.

23 Q. Anybody else?

24 A. Julius Bremopolis. Mr. Lemas?

25 Q. Was he an employee? He did or not.

26 A. Yes. He was at consultation with

27 Q. Was he involved with the courses when you first  
28 undertook your consulting with Intel?



1 A. No. the beginning of any of the public courses?

2 Q. When did he become involved? at one of the courses?

3 A. Approximately February, March, 1974. was he to be

4 Q. So that was after the dates of the courses of  
5 Exhibit B? Do you know if, for example, when that occurred after

6 A. Yes. at the public courses?

7 Q. How about Mr. Garrow? Did you work with him from  
8 the beginning when you were first hired as a consultant to  
9 Intel? It was before the year ended within a few months.

10 A. Yes. there three times of courses given, on a

11 Q. Was there anybody else you worked with prior to the  
12 first October 1 to 3, 1973 course at Intel?

13 A. As far as specifically on the content of the course,  
14 no. Most of the Intel personnel was invited to come to the  
15 local courses to say a few words. In that respect, we would  
16 invite them all. As far as technical input, Mr. Garrow is  
17 the only one I recall. days, if any of them?

18 Q. After you began the public courses for fees in  
19 October of 1973, did the content of the courses change? that

20 A. Very little.

21 Q. Did you have any discussions with Intel personnel  
22 about changes? I correct at first have with and had a few

23 A. No, I didn't. worked most closely with.

24 Q. Do you know whether Mr. Lemas did? in order to

25 A. I don't know whether he did or not. place with

26 Q. Were the changes made without consultation with  
27 Intel? And then is it correct that later Mr. Lemas

28 A. Yes.



1 Q. Did the length of any of the courses change?

2 A. Possibly. I seem to recall that one of the courses  
3 changed from three-day to two-day. That's very vague to me  
4 right now.

5 Q. Do you know approximately when that occurred after  
6 the October start of the public courses?

7 A. No.

8 Q. Was it a matter of a few months or several months?

9 A. It was before the year end, within a few months.

10 Q. Were there three types of courses given on three  
11 different subjects?

12 A. Yes.

13 Q. And were those as indicated on Exhibit B: MCS-4,  
14 MSC-8, and PL/M?

15 A. Yes.

16 Q. Do you remember which of those three was reduced  
17 from three days to two days, if any of them?

18 A. I'd say probably the PL/M course.

19 Q. And whose decision was it to change that, to make  
20 that change?

21 A. I don't know.

22 Q. Is it correct at first Hank Smith and Hal Feeney  
23 were the persons who you worked most closely with?

24 A. I worked with Mr. Lemas. Mr. Lemas interfaced with  
25 most of the Intel personnel. I believe he interfaced with  
26 Mr. Smith the most.

27 Q. And then is it correct that later Mr. Lemas inter-  
28 faced with Dr. Tai?

1 A. Yes.

2 Q. And approximately when did that first occur?

3 A. I believe earlier I said when Mr. Smith left the  
4 company. I'd say late summer of 1973.

5 Q. So it would have been before the October start of  
6 the public courses?

7 A. Yes.

8 MR. HARDING: The prior question was what? Would you  
9 read it back please?

10 (Whereupon the reporter read back the previous question.)

11 MR. HARDING: To the extent that no foundation was  
12 shown that this witness was aware of the first interface of  
13 Mr. Lemas with the individuals, I object on foundation grounds  
14 that this witness may not have known when the first meeting  
15 was.

16 MR. WELSH: Q. Did you meet with Dr. Tai after  
17 he replaced Mr. Smith?

18 THE WITNESS: A. Not to my knowledge.

19 Q. You never had any meeting with Dr. Tai?

20 A. I met him in the hallway and things like that. But  
21 I don't recall any technical, any meetings specifically pertain-  
22 ing to the course.

23 Q. And would this extend from the time that he inter-  
24 faced with Mr. Lemas say through July of 1974? Would that  
25 be accurate?

26 A. I'd say so.

27 Q. From the period of October, 1973 until September of  
28 1974 did you discuss the content of the course with any Intel

1 employees? with Intel?

2 A. Yes. The question has been asked and answered

3 Q. And with whom did you discuss? we answered that

4 A. Bob Garrow.

5 Q. Did you discuss it throughout that whole period?

6 A. Bob Garrow was mostly my technical interface if I  
7 had questions. A. I believe it was the fall of 1974.

8 Q. And that was from October, '73 to September, 1974?

9 A. Yes. Not related to the course specifically during

10 that Q. Do you know where Mr. Garrow is today?

11 A. Yes. A. Yes.

12 Q. Where? frequent were those meetings?

13 A. A company called Convergent Technology. invited to

14 speak Q. Where is that located? on Intel products. Before

15 and A. Santa Clara. often charted about the industry, where

16 it's Q. Anybody else other than Mr. Garrow that you worked  
17 with with respect to the content of the course at Intel? that

18 you A. No. Intel?

19 Q. I will limit it to the period from October, 1973 to  
20 September '74. Was there anyone else that you worked with?

21 A. Brempolis.

22 Q. Was that throughout that whole period? he spoke at

23 and A. Not for Brempolis.

24 Q. How long during that period did you work with  
25 Brempolis? Did he speak at the ones at Intel itself?

26 A. Approximately March, 1974 until we quit consulting  
27 with them. And did he speak at courses outside of this area?

28 Q. You may have stated this, but when did you quit

1 consulting with Intel?

2 MR. RIFKIN: The question has been asked and answered.

3 MR. HARDING: Do you believe you've answered that  
4 question?

5 MR. WELSH: He may have. Just so the record is  
6 clear.

7 THE WITNESS: A. I believe it was the fall of 1974.

8 MR. WELSH: Q. Did you have any meetings with  
9 Dr. Tai that were not related to the course specifically during  
10 that August '73 to September '74 period?

11 THE WITNESS: A. Yes.

12 Q. And how frequent were those meetings?

13 A. Mr. Tai was one of the Intel personnel invited to  
14 speak at the courses to give a pitch on Intel products. Before  
15 and after the course we often chatted about the industry, where  
16 it's going.

17 Q. Did he attend and speak at all of the courses that  
18 you gave for Intel?

19 A. No.

20 Q. Did he speak at most of them?

21 A. No.

22 Q. Do you know what determined which ones he spoke at  
23 and which ones he didn't?

24 A. No.

25 Q. Did he speak at the ones at Intel itself?

26 A. I'm sure he spoke at at least one.

27 Q. And did he speak at courses outside of this area?

28 A. No.

1 Q. Approximately how many courses, if you recall, did  
2 he speak at?

3 A. Four or five.

4 Q. Were they all in this area?

5 A. Yes.

6 Q. Were they spread out throughout the period October,  
7 1973 to September, 1974?

8 A. Mostly at the beginning when Mr. Brempolis was hired  
9 by Intel, he did most of the speaking. So Mr. Tai, when he  
10 spoke at the workshops, it would have been between October and  
11 March.

12 Q. Now, these meetings with Dr. Tai were related to  
13 the courses, were they not?  
14 MR. HARDING: Repeat the question please.  
15 (Whereupon the reporter read back the previous question.)

16 MR. HARDING: Which meetings?  
17 MR. WELSH: That he met with Dr. Tai in connection  
18 with the courses.

19 MR. HARDING: I think you have mischaracterized what  
20 he said entirely. I think he specifically said he did not  
21 meet with Tai with respect to the courses, but at the courses  
22 he met with Mr. Tai on other subjects.

23 MR. WELSH: Q. Did you discuss the courses at  
24 all during these meetings with Dr. Tai at the courses?

25 THE WITNESS: A. We did not discuss course content.  
26 I'm sure we would discuss facilities, maybe attendees, but  
27 not course content.

28 Q. Well, did you discuss anything else with him during

1 those meetings?

2 A. I don't recall. ~~but that Dr. Tai never attended those~~

3 ~~Q.~~ Q. You never discussed microprocessor applications  
4 at that time?

5 A. I really don't recall. Usually had very little ~~work-~~  
6 time. It was like maybe five minutes at a time possibly.

7 Q. Did they ever have luncheons in connection with the  
8 workshops? ~~You did say you ran into him in the hall.~~

9 A. Yes. sure I did. ~~Where we sat as consultants was~~

10 ~~Q.~~ Q. And did you attend the luncheons?

11 A. Yes. ~~you have offices at Intel as consultants?~~

12 Q. Did Dr. Tai attend the luncheons?

13 A. If he came early before he spoke, he would attend.  
14 Most of the time he would be speaking at the end of the course,  
15 so he just showed up right before he spoke. ~~the managers had~~

16 ~~off.~~ MR. HARDING: ~~there~~ I'm going to object to the question as  
17 vague and ambiguous. There is no specific meeting referred  
18 to in the question, and if you are asking for practices,  
19 you've not asked for practices. ~~you mean when a course was~~

20 ~~being~~ MR. WELSH: Q. At any of the meetings where Dr.  
21 Tai attended, do you recall having lunch with him, that is  
22 sitting next to him? ~~how far from Dr. Tai's office were~~

23 ~~there~~ THE WITNESS: ~~you~~ A. Mr. No. ~~was sitting~~

24 Q. Or with him sitting in the vicinity.

25 A. No. ~~you on the way to his office?~~

26 Q. Were courses or workshops held outside of this area?

27 A. Yes. ~~in his normal path to his office, did he pass~~

28 ~~where~~ Q. And did you conduct those courses?

1 A. Yes.

2 Q. And is it correct that Dr. Tai never attended those  
3 courses?

4 A. Yes.

5 Q. Other than those meetings with Dr. Tai at the work-  
6 shops, did you have any other meetings with him?

7 A. Not to my knowledge.

8 Q. You did say you ran into him in the hall.

9 A. I'm sure I did. Where we sat as consultants was  
10 just down the hall from where his office was.

11 Q. Did you have offices at Intel as consultants?

12 A. No.

13 Q. Could you explain what you mean by "Where we sat was  
14 just down the hall from his office"?

15 A. Well, there is a corridor where the managers had  
16 offices, and then there is like a bullpen area where there were  
17 other people, and they had a desk for Manny and I up against  
18 a partition, and we sat there most of the time.

19 Q. By most of the time, you mean when a course was  
20 being given?

21 A. When we were developing the courses.

22 Q. Approximately how far from Dr. Tai's office were  
23 these seats where you and Mr. Lemas sat?

24 A. Fifty feet.

25 Q. Were you on the way to his office?

26 A. From where to where?

27 Q. Well, in his normal path to his office, did he pass  
28 where you and Mr. Lemas sat?

1 A. No.

2 MR. HARDING: I object to the question as no foundation  
3 that this witness knows what his normal path was.

4 MR. WELSH: Q. I believe you did answer the  
5 question, did you not?

6 THE WITNESS: A. Yes, I did. I said no.

7 Q. After Mr. Brempolis left -- I believe you said around  
8 March of 1974?

9 A. Not left.

10 Q. Came?

11 A. Came.

12 Q. After he came in March of '74, then you worked with  
13 him and Mr. Garrow; is that correct?

14 A. Mostly him.

15 Q. Do you know where he's located today?

16 A. No.

17 Q. Was there anyone else other than Mr. Brempolis and  
18 Mr. Garrow that you worked with at Intel in connection with the  
19 content of the courses?

20 A. No.

21 Q. Did you have any other meetings with anyone else at  
22 Intel not directly related to the courses?

23 A. Yes.

24 Q. With whom did you meet?

25 A. Bill Davidow.

26 Q. Anyone else?

27 A. Hal Feeney.

28 Q. Anyone else?



1 A. Dane Elliott I believe was in some of the meetings.  
2 I really didn't have direct conversations with him pertaining  
3 to the course. with Mr. Davidow.

4 Q. Was Mr. Davidow's meetings pertaining to the course?

5 A. Mr. Davidow took Hank Smith's place, who was in  
6 charge of the microcomputer group. He was concerned about  
7 contractual obligations. formal, Just casual gatherings of

8 Q. And he was in the meetings? e're doing, and just

9 A. d. Often we would meet with him alone. interested in

10 Q. Was this at the start of the consulting work after  
11 Smith left?

12 A. Yes. was this shortly after Mr. Davidow took Hank

13 Q. And were those business discussions?

14 A. Yes.

15 Q. What were the business discussions? ne time after

16 A. Mainly pertaining to where we will be teaching  
17 courses, how many we can teach, and to some extent, how long  
18 we will be teaching. the.

19 Q. Did you have written contracts? 's held?

20 A. I don't believe so. I was not involved in the  
21 contract portion of the interface. or pick up more notebooks

22 Q. But you were present when the meetings with Mr. a  
23 Davidow took place? I'd say over a couple of weeks.

24 A. Yes, some of them, not all of them.

25 Q. Did you get into the content of the course at that  
26 time? between the session.

27 A. No. or than during workshops?

28 Q. Was Mr. Feeney present at those meetings?

1 A. I don't believe so.

2 Q. But Mr. Elliott was?

3 A. Not with Mr. Davidow.

4 Q. But he was in other meetings?

5 A. Yes.

6 Q. What were the other meetings?

7 A. Just nothing formal. Just casual gatherings of  
8 Feeney and Tai and Elliott to see how we're doing, and just  
9 general discussions on the courses. They were interested in  
10 how they were going, because it was kind of an experiment for  
11 them.

12 Q. And was this shortly after Mr. Davidow took Hank  
13 Smith's place?

14 A. Yes.

15 Q. And did the meetings continue for some time after  
16 that?

17 A. I said the time duration of the meetings was probably  
18 no more than two months.

19 Q. About how often were the meetings held?

20 A. They weren't formal meetings. Whenever we would  
21 drop into Intel to pick up supplies or pick up more notebooks  
22 that they were preparing for the course, it would just be a  
23 casual gathering. So I'd say over a couple of weeks.

24 Q. Were they between course sessions?

25 A. Yes; not every session, but when they occurred, they  
26 were between the session.

27 Q. Rather than during workshops?

28 A. Yes.

1 Q. Did such meetings even on a casual or informal basis  
2 continue after that first two-month period?

3 A. No.

4 Q. Did you have any informal meetings or just people  
5 getting together after that two-month period?

6 view A. Not to my knowledge.

7 Q. Did anybody at Intel inquire about how the courses  
8 were going?

9 A. Mr. Lemas had many conversations with Mr. Davidow.  
10 I was not involved in those.

11 that Q. At those informal meetings, did you ever discuss  
12 the content of the courses?

13 A. No.

14 Q. Or changes?

15 A. No.

16 Q. I believe you stated you did discuss how the courses  
17 were going.

18 A. Right, in terms of the number of attendees, did all  
19 the equipment work, things like that.

20 Q. Did you ever discuss microprocessor applications  
21 with anyone at Intel during this 1973-74 period even apart from  
22 the courses?

23 A. I'm sure I did.

24 MR. HARDING: I instruct the witness not to speculate.  
25 THE WITNESS: I don't recall.

26 MR. WELSH: Q. Did you have any interest during  
27 that period in learning of new applications for microprocessors?  
28 THE WITNESS: A. Yes.

Q. What was the basis of that interest?

A. Because I'm interested in applying electronics.

Q. Was it just the general interest?

A. Yes. It was general interest from my personal point of view. It was specific from a consulting point of view.

Q. Could you amplify that please? How was it specific from a consulting point of view?

A. We would talk about course personnel. If they had problems which they didn't know how to solve, we advised them that we were consultants, and if they wanted to get in touch with us on a consulting basis, we would try to work out their problem.

Q. You discussed their specific applications with them?

A. Periodically if they would bring them up. Most of them would not talk about their applications, highly proprietary.

Q. You did have some discussions with Intel employees regarding microprocessor applications apart from the courses.

MR. HARDING: I object to the question as mischaracterizing his testimony.

THE WITNESS: A. I don't recall.

MR. KATZ: First he said "I'm sure I did."

THE WITNESS: No, I said "I'm sure I didn't."

MR. HARDING: Do you have a question, Mr. Welsh, now of the witness?

MR. WELSH: Yes.

MR. WELSH: Q. Did you ever meet or discuss with

1 anyone at Intel during the '73-'74 period microprocessor  
2 applications apart from the courses?

3 THE WITNESS: A. I do not recall any specific  
4 meetings with Intel personnel on applications.

5 Q. Do you believe you did have such meetings?

6 MR. HARDING: I object to the question as calling for  
7 speculation of the witness.

8 MR. WELSH: Q. You may answer it.

9 THE WITNESS: A. That could be possible.

0 Q. You believe it actually occurred?

1 MR. HARDING: I once again object to the question as  
2 calling for this witness to speculate and/or form opinions at  
3 this deposition.

4 THE WITNESS: A. No.

5 MR. KATZ: Could you go back about five questions  
6 and answers. I thought that was "I'm sure I did."

7 (Whereupon the reporter read back the following question  
8 and answer:

9 "Q. Did you ever discuss microprocessor applications  
0 with anyone at Intel during this 1973-74 period even apart  
1 from the courses?

2 "A. I'm sure I did.")

3 MR. WELSH: Q. Is that the answer you gave to  
4 that question?

5 THE WITNESS: A. Yes.

6 MR. WELSH: Mr. Reporter, I'd like you to repeat the  
7 question and answer in the transcript.

8 MR. RIFKIN: Generally I object to reproducing

questions in the record if they are not orally expressed at a deposition the second time. This is a transcript of what has been said, not of what you asked the reporter to reproduce at some point. I do have a problem with that, Mr. Welsh.

MR. WELSH: I think it's important in this case to show what question and answer were read to the witness to which he answered that was the answer he gave. Without having some reference to it, then the record would be meaningless in that regard.

MR. RIFKIN: Fine, so just reask the question again.

MR. WELSH: No. I've asked the reporter just to reproduce the question that he read before I ask the next question.

MR. RIFKIN: I would ask the reporter not to insert into this transcript anything that is not stated by counsel or by the witness.

(Off-the-record discussion.)

MR. HARDING: Off the record we have agreed to accede to Mr. Welsh's position to recopy the question at this point, and I would voir dire the witness at this spot.

MR. Holt, did you have a specific occasion in mind when you said "I'm sure I did?"

THE WITNESS: No.

MR. HARDING: What was the basis for saying then that you are sure you did?

THE WITNESS: Because over a period of many, many months, one of them may have made a comment, and it was on that basis. It was certainly speculation. I do not recall any

specific occasion.

MR. HARDING: Thank you.

MR. WELSH: Q. Did you ever make any effort to discuss specific applications with any personnel of Intel, that is applications for microprocessors apart from the courses?

THE WITNESS: A. No.

Q. Other than your general interest in applying electronics, did you have an interest in learning about different microprocessor applications?

A. Yes.

Q. What was that?

A. Would you rephrase the question?

Q. What interest other than the general interest in applying electronics did you have in learning about microprocessor applications?

MR. HARDING: Object, as asked and answered.

THE WITNESS: A. Earlier I said we were in the consulting business. It was on that basis that we had an interest.

MR. WELSH: Q. Was that the only interest other than the general interest, because you were in the consulting business?

THE WITNESS: A. There was general personal interest and consulting interest.

Q. Do you recall any of those applications?

A. No.

MR. RIFKIN: Mr. Welsh, I just note for the record that Mr. Holt has produced a myriad number of documents this



1 morning, and this I assume is not a memory test. From those  
2 documents and others that you do have you can get some of the  
3 information you are seeking if that's the purpose.

4 MR. HARDING: Especially since the same questions  
5 have been asked and answered two and three times within a brief  
6 time span.

7 MR. WELSH: That isn't necessary, Mr. Harding,  
8 either because the witness hasn't understood the question or  
9 for some other reason the answer does not always seem to be  
10 the same.

11 MR. HARDING: In your opinion.

12 MR. WELSH: Yes.

13 MR. RIFKIN: The witness in my view, Mr. Welsh, has  
14 indicated when he doesn't understand your questions and the  
15 ones that he does understand, he's been answering.

16 MR. WELSH: It's 12:30. This might be a good time  
17 to break for lunch.

18 MR. HARDING: We do ask for an expedited lunch  
19 session in order to make sure we finish as quickly as possible.  
20 (Recess for lunch.)

21 THE WITNESS: A. Yes

22 Q. What was your last interview?

23 A. I interviewed for a long time.

24 Semiconductors for the microprocessors.  
25 that microprocessors. I was informed of what they were going to do.

26 Q. Any other familiarity?

27 A. No.

AFTERNOON SESSION

1 MR. WELSH: Q. Mr. Holt, at the present time do  
2 you have any recollection of having any familiarity in the  
3 1973-74 time frame with an application of a microprocessor  
4 in traffic light controllers?

5 THE WITNESS: A. I only remember seeing it listed  
6 on an Intel ad. But I believe there was at least one article  
7 in the trade journal on it.

8 Q. What trade journal?

9 A. Do you want me to list all of the ones I know of at  
10 the time?

11 Q. The one you do remember.

12 A. Mostly like EDN.

13 Q. Is that an abbreviation or initials for something?

14 MR. HARDING: I'm instructing the witness not to  
15 speculate. At this time do you

16 THE WITNESS: A. That's just what they have on it.  
17 I don't know what it stands for.

18 MR. WELSH: Q. At this time do you have any  
19 recollection of having had a familiarity in 1973-74 time  
20 period with any applications of microprocessors for automobiles?

21 THE WITNESS: A. Yes.

22 Q. What was your familiarity there?

23 A. I interviewed for a job position with Fairchild  
24 Semiconductor for the position of manager of their department  
25 that had applied microprocessors to automobiles, and they  
26 informed me of what they were getting into.

27 Q. Any other familiarity?

28 A. No.

1 Q. Do you have any recollection of Dr. Tai discussing  
2 such an application with you in that 1973-74 time period?

3 A. No.

4 Q. Do you have any recollection of discussing traffic  
5 light controllers for microprocessors with Dr. Tai in the  
6 '73-'74 time period?

7 A. No.

8 Q. At this time, do you have any recollection of  
9 familiarity in the 1973-74 time period with an application of  
10 microprocessors for fast food machines?

11 A. No.

12 Q. Do you recall discussing any such application with  
13 Dr. Tai during the 1973-74 time period?

14 A. No.

15 Q. At this time do you recall having any familiarity  
16 in the '73-'74 time period with an application of micro-  
17 processors for airline ticket reservations?

18 A. No.

19 Q. Do you recall discussing such an application with  
20 Dr. Tai in the '73-'74 time period?

21 A. No.

22 Q. Referring to Exhibit B in the agenda for the various  
23 days of the workshops given there, were those agendas followed  
24 in the courses that you and Mr. Lemas gave?

25 A. Pretty close.

26 Q. Referring to MCS-4 agenda day three in the afternoon,  
27 there is noted a lecture entitled "Review of Selected Applica-  
28 tions." Who gave that lecture?

1 A. Mr. Lemas. Did he lab in the afternoon of day one,

2 Q. Who selected the applications which were discussed  
3 there?

4 A. Normally his procedure would be to ask the class to  
5 talk about what they are involved in and what particular  
6 problems they thought they might face, and he would develop it  
7 further. So it was kind of off the cuff. He gave the class  
8 a real chance to interface with the instructor.

9 Q. This says "Review of Selected Applications." So you  
10 conducted Well, selected from the audience?

11 Q. Not preselected?

12 A. No. He may have done that sometimes, but I don't  
13 know of that.

14 MR. HARDING: I instruct the witness not to speculate.

15 MR. WELSH: you and Q. Did you discuss with him any  
16 applications to be discussed in this review indicated on the  
17 afternoon of MCS-4 agenda day three?

18 THE WITNESS: A. No.

19 Q. Who prepared this agenda?  
20 A. Mr. Lemas.  
21 Q. Did you have anything to do with it?

22 A. I taught the portion of the workshop that had to do  
23 with the labs. So from my outline of what I would teach in  
24 the lab, he prepared the overall outline.

25 Q. Referring to the MCS-4 workshop, would you tell us  
26 what portions you conducted?

27 A. Do you want me to list the name of everywhere it  
28 says lab? Mr. Lemas did have something to do with applications.

Q. So that would be lab in the afternoon of day one, one in the morning of day two, and one in the afternoon of day two, two in the afternoon of day three; is that correct?

A. One in the morning of day three and one in the afternoon.

Q. And did Mr. Lemas conduct the remainder of the courses?

A. Yes.

Q. Is that generally true of MCS-8 workshop, also you conducted the lab, and he did the rest of it?

A. Yes.

Q. Is it also true of the PL/M workshop?

A. Yes.

Q. Did you keep the same format for all of the Intel workshops that you and Mr. Lemas conducted?

A. Yes.

Q. Did you also conduct courses for others than just Intel?

MR. HARDING: I am going to object, Mr. Welsh. This is clearly outside the scope of our agreement concerning the Tai affidavit unless you can explain to me how it's within it.

MR. WELSH: I think it goes to the credibility of the witness as to his testimony with respect to the conduct of the workshops and applications. The applications were certainly referred to in the Tai affidavit, and he has indicated that applications were not discussed in workshops, and I think clearly you will see that there were other workshops that apparently Mr. Holt did have something to do with applications.

1 I think it's significant. He has also stated he did not  
2 discuss applications with Dr. Tai and has little recollection  
3 of discussing them with Intel personnel. So I think that any-  
4 thing he had to do with applications is relevant.

5 MR. HARDING: We don't agree, but in the interest of  
6 your having your full day to seek discovery on this issue,  
7 we're going to allow you to proceed. We do again request you  
8 be reasonable.

9 MR. WELSH: Q. Now, did you bring certain  
10 documents with you today?

11 THE WITNESS: A. Yes.

12 Q. Would you tell us on the record what documents you  
13 brought with you?

14 MR. HARDING: You mean generally?

15 MR. WELSH: Yes, generally. Well, of course not  
16 document by document.

17 THE WITNESS: A. Generally I brought three separate  
18 collection of documents. One is a box, a white box approximately  
19 two feet by two feet by one foot, which is located in my office  
20 at Synertek Systems. I also brought some documents which were  
21 at my house. There was a box approximately one foot by one  
22 foot by one foot. Also I brought some rolled-up vellums, which  
23 were part of an exhibit from my last deposition. As I remember  
24 they were Ramtek schematics.

25 MR. HARDING: I want the record to clearly reflect that  
26 it is the defendant's position that these documents from what  
27 we have seen of them are clearly outside the scope of the  
28 deposition and the narrow subpoena notice, and were only brought

1 by this witness for whatever reason that he brought them.

2 MR. WELSH: Q. Did you discuss with anyone what  
3 documents you would bring?

4 THE WITNESS: A. Yes.

5 Q. With whom did you have such discussions?

6 A. Mr. Ted Neils.

7 MR. HARDING: I want to caution the witness that al-  
8 though I don't represent him in connection with his corporation,  
9 there is a certain privilege between the witness and his  
10 counsel, and the privilege can be waived if he discloses  
11 certain communications. I ask him to just consider that  
12 subject.

13 MR. WELSH: Q. Do you recall a telephone conversa-  
14 tion with me about the document?

15 THE WITNESS: A. Possibly yesterday you might have  
16 mentioned it.

17 Q. Do you remember telling me that you had discussed  
18 the documents of the subpoena with Mr. Neils, and that he  
19 indicated it would be appropriate to provide all of the documents  
20 described in the subpoena?

21 A. Yes.

22 Q. Did you make a search for the documents?

23 A. Yes.

24 Q. When you made the search, what were you looking for?

25 MR. HARDING: I'm going to object to the question to  
26 the effect that it's Mr. Welsh's language of -- that these  
27 documents fall within the scope of the subpoena. This witness  
28 has not indicated that they do or on what basis that he



1 produced them other than he just brought them according to his  
2 his attorney's suggestion. I object to any inference that the  
3 witness made a determination that they were within the scope of  
4 the subpoena.

5 MR. WELSH: Could we have the question? (question.)

6 (Whereupon the reporter read back the previous question.)

7 THE WITNESS: A. I was looking for all documents  
8 related to the second and third page of the subpoena.

9 MR. WELSH: Q. That's the page marked Exhibit A?

10 THE WITNESS: A. Yes.

11 Q. And you selected these documents which you brought?

12 A. Yes.

13 MR. HARDING: I am going to object to the last  
14 question as being overly leading on what documents he selected  
15 and what he was instructed to bring to the deposition.

16 MR. WELSH: Q. Do these documents come from the  
17 files that you worked with at Compata and Microcomputer  
18 Associates?

19 THE WITNESS: A. No.

20 Q. Could you describe generally where they came from?

21 A. They came strictly from the files of Microcomputer  
22 Associates.

23 Q. And were they documents that you worked with while  
24 you were at Microcomputer Associates?

25 A. Not necessarily.

26 Q. Were they documents, to the best of your knowledge,  
27 that were kept in the ordinary course of business of Micro-  
28 computer Associates?

1 MR. HARDING: Objection, lack of foundation that this  
2 witness has any knowledge on that subject.

3 THE WITNESS: Will you restate the question?

4 MR. WELSH: Could you restate it?

5 (Whereupon the reporter read back the previous question.)

6 MR. HARDING: I also object to the question being  
7 vague. We have a substantial number of documents, and I don't  
8 know if Mr. Welsh is referring to any specific documents or  
9 if he's referring to the entire collection as a group.

10 MR. WELSH: Can you answer the question?

11 THE WITNESS: A. I don't know what you call  
12 ordinary. These were documents I could find from Microcomputer  
13 Associates.

14 Q. From the files of Microcomputer Associates?

15 A. Yes.  
16 Q. Did you discuss the document production with Mr.  
17 Harding or Mr. Rifkin?

18 A. Yes.

19 Q. When did you do that?

20 A. Mostly likely -- I'm not sure at what point in time.

21 Q. Was it this week?

22 A. Yes.  
23 Q. Was it Tuesday afternoon?

24 A. Which day did all of you come here?  
25 Q. Tuesday.

26 A. Tuesday.

27 Q. Was it before Mr. Katz and Mr. Schnayer and I  
28 arrived at the Synertek offices?

1 A. No.

2 Q. Was it afterwards?

3 A. Yes.

4 Q. What was the substance of the discussion?

5 and A. I was encouraged to bring only the relevant  
6 documents according to the agreement that the two sides had  
7 made previously.

8 Q. Are you informed of that agreement?

9 A. I believe I was.

10 Q. How did you become informed about it?

11 that A. By Mr. Harding.

12 Q. Was it at that time that he informed you about the  
13 agreement?

14 A. Yes.

15 Q. Had he discussed the agreement with you prior to  
16 that time?

17 if you A. No. I was with these documents, and I was told  
18 could Q. Did he tell you what he thought the agreement meant?

19 A. Yes. Like two documents.

20 is or Q. What did he tell you? What did he tell you the  
21 agreement meant?

22 proper A. That the scope of the deposition would be limited  
23 to my relationship with Mr. Phil Tai.

24 Q. Did he ask you to produce only documents that  
25 refer to Dr. Tai?

26 A. That was my understanding.

27 Q. Did he indicate any documents he thought you  
28 shouldn't bring?

1 A. No.

2 Q. Did he discuss anything else with you at that time?

3 A. No.

4 MR. HARDING: I object to the question as being vague  
5 and indefinite. What possibly can anything else mean?

6 MR. WELSH: Q. Did he discuss with you any  
7 limitation of your testimony to be given at the deposition  
8 today?

9 THE WITNESS: A. No.

10 Q. Did he suggest that you shouldn't answer questions  
11 that didn't relate directly to Dr. Tai?

12 A. No.

13 Q. Did you discuss that at all?

14 A. No.

15 Q. I show you now a group of six pages which appeared  
16 in the smaller one-by-one-by-one box I believe. I'll ask you  
17 if you're familiar with these documents, and if so, if you  
18 could tell us what they are?

19 A. Looks like two documents put together. One of them  
20 is an originally typed copy of the proposed outline of a  
21 three-day Intel 8080 course. The other one looks like a  
22 proposed outline for a course for two National Semiconductor  
23 Microprocessors.

24 MR. HARDING: Would you reread the question again for  
25 me?

26 (Whereupon the reporter read back the previous question.)

27 MR. HARDING: I am going to object to the question as  
28 being compound; first as to whether he's familiar with the

1 document, and second, what they are. There is no showing the  
2 witness has any firsthand familiarity with these documents.

3 MR. WELSH: Q. Do you have anything to do with  
4 the preparation of either of these documents?

5 THE WITNESS: A. Yes.

6 Q. What did you have to do with the preparation of  
7 the first three pages?

8 A. The sections pertaining to computer hardware I was  
9 involved in writing the paragraph.

10 Q. Could you point to those specific paragraphs?

11 A. Day one, Microcomputer Number Systems and  
12 Controlling; day two, AM Hardware Interfacing; day two, PM  
13 Peripheral Device Drivers and Interfaces; day three --

14 Q. Did you discuss the entire document with Mr. Lemas?

15 A. Yes. Would you read Mr. Welsh's last comment?

16 Q. Did he prepare the rest of it?  
17 A. Yes.

18 Q. Did you work with him in the preparation of the  
19 document?  
20 A. Yes.  
21 MR. RIFKIN: Mr. Welsh, perhaps you could separate  
22 those two documents and mark the first one.

23 MR. WELSH: If you have no objection, that will be  
24 fine. We go ahead and mark them and then determine what the

25 THE WITNESS: No.

26 MR. WELSH: Do you have any objection, Mr. Harding?

27 MR. HARDING: Are you representing that the documents  
28 were paper clipped together in the box?

1 MR. WELSH: Yes. We preserve the integrity of the  
2 documents. We did not separate them. That's the way they came  
3 out of the box.

4 MR. HARDING: I have no objection.

5 THE WITNESS: Fine with me.

6 MR. WELSH: Q. Do you mind if we mark the three-  
7 page document as an exhibit?

8 THE WITNESS: A. No.

9 Q. There will be other documents here. Maybe you want  
10 to take them up one by one. But we would like to mark them,  
11 and we can either retain them and return them to you after the  
12 matter is over, or we can make copies with an agreement with  
13 counsel, or we can send copies back to you, whichever you would  
14 like.

15 MR. HARDING: Where would you read Mr. Welsh's last comment?

16 (Whereupon the reporter read back the previous statement  
17 by Mr. Welsh.)

18 MR. HARDING: Mr. Welsh, I'm going to suggest that  
19 Mr. Neils be consulted with what documents are retained or  
20 kept and the disposition of the originals, since he was the one  
21 that ordered these documents produced. This witness was merely  
22 following instructions.

23 MR. WELSH: Well, do you suggest we do that now,  
24 or can we go ahead and mark them and then determine what the  
25 disposition will be?

26 MR. HARDING: I think that's appropriate. Mark them  
27 and determine later.

28 MR. WELSH: Would you mark this three-page document

1 entitled Proposed Outline of a Three-Day Intel 8080 Course  
2 as Holt Deposition Exhibit C.

3  
4 (Whereupon a three-page document  
5 entitled "Proposed Outline of a  
6 Three-Day Intel 8080 Course" was  
7 marked Plaintiff's Exhibit Holt  
8 C for identification.)

9 MR. WELSH: Q. Was this outline actually followed  
10 in the conduct of the courses that were given by you and Mr.  
11 Lemas?

12 THE WITNESS: A. Not to my knowledge.

13 Q. Referring to Page 3 under day three, PM, with the  
14 time period of three hours indicated as a detailed discussion  
15 covering specific applications, was that portion of this pro-  
16 posed outline ever followed?

17 A. As we saw earlier in the Exhibit B brochure, there  
18 was a session in there that Mr. Lemas conducted with a similar  
19 description.

20 Q. It's your testimony that that involved only applica-  
21 tions of the attendees at the conference?

22 A. To my knowledge.

23 Q. There were no preselected applications?

24 A. Not to my knowledge.

25 MR. RIFKIN: I object to the question as already having  
26 been asked and answered.

27 and MR. WELSH: Q. Were you present when Mr. Lemas  
28 conducted the portion of the workshops, specifically MCS-4,  
agenda day three, PM, where it refers to review of selected  
applications?

MR. HARDING: I object to the question as to vagueness,



11 both on whether he was always present at every meeting or  
12 whether presence means in a different room but yet in the same  
13 general facility.

14 MR. WELSH: Generally present.

15 MR. HARDING: I don't know what generally present  
16 means either.

17 MR. WELSH: Q. Did you have a custom with respect  
18 to being present when Mr. Lemas gave his portions of the programs?

19 THE WITNESS: A. No.

20 Q. Were you present sometimes?

21 A. No.

22 Q. You were never present when Mr. Lemas gave those  
23 portions of the program?

24 A. Referring to day three afternoon lecture?

25 Q. Yes.

26 A. No, I was never present.

27 Q. Were you ever present when Mr. Lemas gave any  
28 portion of a workshop relating to selected applications?

29 A. No.

30 Q. During any of the courses, for what portion were  
31 you present?

32 A. Normally the first morning of the first day the  
33 entire class was together. Mr. Lemas presented an introduction  
34 and I was normally present at that time.

35 Q. With him?

36 A. Yes.

37 Q. Were you present at any other times?

38 A. Periodically we would bring the whole class back

1 together at the conclusion of the third day. Most of the time  
2 we ran out of time to do that. When we brought the class back  
3 together, I was normally involved.

4 Q. Was that during the portion indicated as critique  
5 or course critique?

6 A. Yes, that's what I'm referring to.

7 Q. Were you present during the lab portions?

8 A. When?

9 Q. Well, during the lab portions for the MCS-4 work-  
10 shop, for example.

11 A. Yes.

12 MR. HARDING: Are you talking about practices now or  
13 specific courses?

14 MR. WELSH: I said any of the courses.

15 MR. HARDING: I am not sure it's been established that  
16 this witness participated in each and every course.

17 MR. WELSH: Q. Did you participate in the lab  
18 portions of the MCS-4 workshop?

19 THE WITNESS: A. Yes.

20 Q. And the same for the lab portions of the MCS-8  
21 workshop?

22 A. Yes.

23 MR. HARDING: Is that over the entire '73-'74 time  
24 period?

25 MR. WELSH: During the time when he and Mr. Lemas  
26 gave the courses.

27 MR. HARDING: Each and every course for the two-year  
28 period?

1 MR. WELSH: Yes.

2 THE WITNESS: A. Yes.

3 MR. WELSH: Q. Were you present for the lab  
4 portions of the PL/M workshops?

5 THE WITNESS: A. Yes.

6 Q. But you were never present during any of the other  
7 sessions other than the first morning of the first day  
8 presentation of Mr. Lemas?

9 A. Yes, that's correct.

10 Q. That's correct?

11 A. Yes.

12 Q. I hand you the second three pages of the six that  
13 I handed you earlier. Did you have anything to do with the  
14 preparation of that?  
15 A. Not to my knowledge.

16 Q. Are you familiar with the document?

17 A. I'm familiar with the name on the document.

18 Q. Were there ever any workshops given for National  
19 Semiconductor in connection with its IM/P 8 and 16 micro-  
20 processors?

21 A. Yes.

22 Q. Did you have anything to do with those?

23 A. No.

24 Q. Who gave those so far as you know?

25 A. Mr. Norton, I believe that's his name. He was an  
26 employee of Compata about the time Manny and I left. He was  
27 involved with National Semiconductor on those courses.

28 Q. Were you familiar with the content of those

1 workshops? Is it something you brought to him, and did it have

2 fact? A. No.

3 Q. Did you ever have any discussions with Mr. Norton  
4 about them? Is the term off to you?

5 A. About --

6 Q. About the workshops. three-page document entitled

7 Agent A. Yes. two-and-a-half day Microcomputer Seminar and ask

8 if the Q. Did you have any discussions with him about the  
9 content of the workshops?

10 A. Yes. I have any familiarity with any TOW two-and-a-

11 half Q. Did you ever attend any of those workshops?

12 A. No.

13 MR. RIFKIN: Is the Mr. Welsh, this is so far afield. There  
14 is no connection. You certainly haven't gone into the subject  
15 you used for the connection earlier.

16 MR. WELSH: that was Q. Yes. My next question was did you  
17 ever discuss applications with Mr. Norton?

18 THE WITNESS: my A. No.

19 MR. HARDING: correct Let the record show that if that last  
20 question was supposed to make it relevant, we strongly dis-  
21 agree. We once again object to plaintiffs prolonging this  
22 limited deposition by going into each and every application  
23 regardless of whether there is a showing of a connection with  
24 Dr. Tai. When did you first begin to work with Mr. Letas?

25 MR. WELSH: Q. Did you have anything to do with  
26 a NEL three-day microcomputer seminar? I heard very strenuously

27 on THE WITNESS: A. No. It doesn't sound familiar. you

28 Q. I show you another three-page document selected from

1 the smaller box which you brought today, and ask if that's  
2 familiar to you? I indicate. I've stated my objection.

3 A. Yes. This does not look familiar. Only a year to a year

4 Q. Does the term NEL mean anything to you? Lemas was

5 A. Yes. No. A company I was working with called American

6 Q. I hand you another three-page document entitled  
7 Agenda TRW two-and-a-half day Microcomputer Seminar and ask  
8 if this document is familiar to you?

9 A. Yes. No. Yes.

10 Q. Do you have any familiarity with any TRW two-and-a-  
11 half day microcomputer seminars?

12 A. Yes. We were working on the project together.

13 Q. What is the basis of your familiarity? Early that  
14 period. A. I knew Mr. Lemas was doing a proposal for them at  
15 one time.

16 Q. Did that ever result in any seminars being given  
17 involving Mr. Lemas? Do you know?

18 A. Not to my knowledge. You were working on the project.  
19 Q. Is it correct that you joined Compata in July of  
20 1973? A. Yes.

21 A. That sounds close. Full time on the project?

22 Q. Did Mr. Lemas join Compata at the same time?

23 A. No. He?

24 Q. When did you first begin to work with Mr. Lemas?

25 MR. HARDING: as best I am going to object to that sequential  
26 questioning, Mr. Welsh. We have not objected very strenuously  
27 on leading grounds. However, when you have in front of you  
28 a set of notes from a prior deposition, and you ask questions

1 tending to elicit a particular answer from the witness, I  
2 think it's objectionable. I've stated my objection.

3 THE WITNESS: A. Approximately a year to a year  
4 and a half previous to when I joined Compata, Mr. Lemas was  
5 contracted to a company I was working with called American  
6 Microsystems.

7 MR. WELSH: Q. You were employed by American  
8 Microsystems at the time?

9 THE WITNESS: A. Yes.

10 Q. Did you work on a project with him or just meet  
11 him?

12 A. We were working on the project together.

13 Q. Did that occupy -- did that project occupy that  
14 period of a year to a year and a half before you went to  
15 Compata?

16 A. The project stopped a month to two months before  
17 I joined Compata.

18 Q. And during the time you were working on the project,  
19 did you and Mr. Lemas work closely together?

20 A. Yes.

21 Q. Did you spend your full time on the project?

22 A. I did, yes.

23 Q. Did he?

24 A. Not to my knowledge.

25 Q. What was his position on the project?

26 A. He's a programming consultant.

27 Q. Did you work in hardware for the project?

28 A. Yes.

1 Q. Did you work closely with him?

2 A. With Mr. Lemas?

3 Q. Yes.

4 A. Yes.

5 Q. And after the project was completed, did you

6 subsequently commence working with Mr. Lemas again?

7 A. At Compata.

8 Q. And you stated he did not go there at the same time

9 you did. Approximately how soon after you went there did he

10 go?

11 A. He was there before I got there.

12 Q. Oh. Was he working for Compata at the time he was

13 a consultant to American Microsystems?

14 A. Yes.

15 MR. HARDING: I object strongly on the line of leading

16 questions in this background information and Mr. Welsh's off-

17 the-cuff comments of seeming surprise when he asks a question

18 inconsistent with the facts. I request Mr. Welsh to allow

19 the witness to testify, and Mr. Welsh merely to ask questions

20 of the witness without leading to the degree he's leading.

21 MR. WELSH: Just trying to speed up the process.

22 MR. WELSH: Q. After you joined Compata, did you

23 work closely with Mr. Lemas?

24 MR. HARDING: I'm going to object to that question on

25 the basis of what closely means. It's an argumentative term,

26 and if Mr. Welsh wants to know the basis of a relationship,

27 I request that he ask this witness what the relationship was.

28 MR. WELSH: I'll change my question.



1 MR. WELSH: Q. What was the relationship between  
2 You and Mr. Lemas while you were with Compata?

3 THE WITNESS: A. Mr. Lemas was the project leader  
4 or project manager for the Intel workshops. He was mainly  
5 involved in the business of programming relationship, and I  
6 worked closely with him, almost one hundred percent of the time,  
7 doing the hardware portion of the workshop.

8 Q. Did that relationship continue until you both left  
9 compata?

10 A. Yes. There were times in between where I was pulled off  
11 to do other small type jobs.

12 Q. Did the relationship continue when you formed  
13 Microcomputer Associates?

14 A. Yes.

15 Q. And did that relationship continue through the year  
16 1974?

17 A. Not totally.

18 Q. To what extent did it stop?

19 A. Well, in April of '74, we were in a business together.  
20 So we both assumed whatever responsibilities that were needed  
21 to keep the business going, whether it was marketing, financial,  
22 manufacturing, programming, engineering. We both kind of  
23 dabbled in everything. It was not as clear-cut as it was  
24 during Compata.

25 Q. Did the two of you form Microcomputer Associates  
26 together?

27 A. We were the two officers that formed it. I should  
28 rephrase that. We were the two major stockholders.

1 Q. And did you maintain close contact with each other  
2 during the time after you formed Microcomputer Associates?

3 MR. HARDING: I object to the question on the same  
4 grounds as previously. What close contact means is only  
5 known to Mr. Welsh.

6 MR. WELSH: I believe the witness himself used  
7 the term close.

8 MR. HARDING: Only in responding to your leading  
9 questions using that term earlier. Now, during the Compata  
10 and the years at Microcomputer Associates, I think the witness  
11 ought to use his own terminology.

12 THE WITNESS: Is there a question pending?

13 MR. WELSH: I believe so.

14 MR. HARDING: I request the witness to answer the  
15 question in his own terms.

16 (Whereupon the reporter read back the previous question.)

17 THE WITNESS: A. Mr. Lemas and I were two of three  
18 employees in the company, and eight hours a day we were in  
19 contact with each other.

20 MR. WELSH: Q. Did you keep each other informed  
21 about your respective duties?

22 THE WITNESS: A. On a general basis, yes.

23 MR. HARDING: Mr. Welsh, is all this in the subject  
24 matter of the Tai affidavit? Defendants object. Defendants  
25 do object on the relevancy grounds. There is no conceivable  
26 relationship to the Tai affidavit in the last half an hour,  
27 and the witness is sitting here blowing his nose and sniffing  
28 and trying to continue the deposition.

1 MR. WELSH: Q. r, Do you still work together, Mr.  
2 Holt?

3 THE WITNESS: A. Yes. If there is any confidential

4 info Q. How would you describe your relationship?

5 A. In what terms?

6 Q. Well, would you say it's still a close relationship  
7 with Mr. Lemas?

8 A. Business relationship?

9 Q. Yes.

10 A. Not as close as before.

11 Q. And what do you mean by before; before you formed  
12 Synertek?

13 A. During Microcomputer Associates.

14 Q. You say not as close as before, but would you still  
15 say it's close?

16 MR. HARDING: Objection, merely argumentative,  
17 completely undefined what Mr. Welsh means by his term close.

18 THE WITNESS: Mr. Lemas and I are aware of each  
19 other's duties and responsibilities.

20 MR. WELSH: Q. On a daily basis?

21 THE WITNESS: A. No.

22 Q. I believe you stated earlier that Microcomputer  
23 Associates, in addition to conducting courses, also had a  
24 consulting business.

25 A. Yes.

26 Q. I now hand you a document which was in the larger  
27 box that was produced on Tuesday, and ask if you recognize  
28 that document? It appears to be a balance sheet with a cover

1 letter from Hicks & Holder, Certified Public Accountants, dated  
2 December 14, 1974 for Microcomputer Associates Inc.

3 MR. HARDING: Mr. Holt, if there is any confidential  
4 information in that, I would suggest you perhaps contact Mr.  
5 Neils or your counsel, and ask if that needs to be subject to  
6 a protective order. I don't see the relevancy to the affidavit  
7 of Dr. Tai, but --

8 THE WITNESS: That's what my thoughts were. These  
9 financial statements were -- when Honeywell bought us, we  
10 were asked not to divulge any financial information.

11 MR. WELSH: I think we can cover the subject that  
12 I'm interested in here without revealing financial information.

13 MR. HARDING: Well, can you show the relevancy to the  
14 Tai affidavit of the question in connection with these documents?

15 MR. WELSH: This goes to the credibility of the  
16 witness.

17 MR. HARDING: Do all of your questions go to the  
18 credibility of the witness? Is that the relevancy?

19 MR. WELSH: Many of the ones that are coming up do,  
20 yes.

21 MR. HARDING: Well, we strongly object. We consider  
22 it an abuse of the agreement.

23 MR. RIFKIN: There is no outstanding question.

24 MR. WELSH: I asked him if he was familiar with the  
25 document.

26 THE WITNESS: I've seen this one before, yes.

27 MR. WELSH: Q. Turning to the sixth page under  
28 Notes to Financial Statement at November 30, 1974, there appears

1 a Paragraph 3 entitled Microcomputer Digest. Are you familiar  
2 with that note?

3 MR. HARDING: I notice there are costs and figures in  
4 that paragraph, Mr. Welsh.

5 MR. WELSH: I have avoided bringing them up, and I  
6 intend to continue to avoid it.

7 THE WITNESS: A. I'm familiar with the content of  
8 the paragraph.

9 MR. WELSH: Q. There is a statement that reads  
10 "The company entered into the publication field during the  
11 current year." Is that an accurate statement, to the best of  
12 your knowledge?

13 THE WITNESS: A. Yes.

14 Q. Could you explain what the entry of the  
15 company into the publication field during the current year  
16 was?

17 MR. HARDING: I object to the question, lack of  
18 foundation that this witness had any direct knowledge of the  
19 meaning of that particular sentence. It's not been established  
20 that he has done anything other than seen this document in  
21 the past.

22 MR. WELSH: He said the statement was accurate to  
23 the best of his knowledge.

24 MR. WELSH: Q. To the best of your knowledge, what  
25 was the entry of the company into the publication field during  
26 the current year?

27 MR. HARDING: Unless it's shown that the witness  
28 has knowledge with respect to this, I object to any speculation

1 on his part as to what the writer intended to convey by that  
2 sentence.

3 MR. WELSH: I'm not asking what he thinks the writer  
4 intended to convey.

5 MR. HARDING: I don't understand the question then,  
6 and object accordingly.

7 MR. WELSH: Q. Did the company enter into the  
8 publication field in 1974?

9 THE WITNESS: A. The company, Microcomputer  
10 Associates, had a magazine they published.

11 Q. Did they commence a publication of the magazine in  
12 1974?

13 A. Based on that statement, I would say yes.

14 Q. Well, do you have any recollection apart from that?

15 A. No, I would refer to the first issue of the magazine.

16 Q. What was the name of the magazine?

17 A. Microcomputer Digest.

18 Q. Do you know whether that was intended as a business  
19 venture for the company?

20 MR. HARDING: Objection.

21 MR. WELSH: I asked if he knew.

22 MR. HARDING: Intended by whom. The question is  
23 ambiguous.

24 THE WITNESS: Repeat it.

25 (Whereupon the reporter read back the previous question.)

26 THE WITNESS: A. Yes.

27 MR. WELSH: Q. Was it a business venture?

28 THE WITNESS: A. Yes.

1 Q. I hand you now another document which came out of  
2 the larger box of documents that you have also produced on  
3 Tuesday, September 16th, and ask you if you recognize that  
4 document, which purports to be printed matter entitled  
5 "Microcomputer Digest, July, 1974, Volume 1, Number 1?"

6 A. Yes, I recognize --

7 MR. RIFKIN: Off the record for just a moment.

8 (Off-the-record discussion.)

9 THE WITNESS: These are all valid copies of the  
10 Microcomputer Digest for the dates August '74, September '74,  
11 October '74, November 1974, December 1974, January 1975,  
12 February 1975 and March 1975.

13 MR. WELSH: Q. And the first one?

14 THE WITNESS: A. The first one I looked at, July  
15 1974. A. Yes.

16 MR. WELSH: Can we stipulate that these are copies  
17 of a publication of Microcomputer Associates Inc. entitled  
18 Microcomputer Digest for the months named by the witness,  
19 specifically monthly from July of 1974 through March of 1975?

20 MR. HARDING: We will stipulate that those are copies  
21 of Microcomputer Digests during those dates; that this witness  
22 is familiar with those. Whether they are a publication will  
23 I guess depend upon your establishing them as a publication.  
24 I don't know what disposition was done with those documents.  
25 So therefore we can't stipulate to them.

26 MR. WELSH: Q. Are these copies of publications  
27 published by Microcomputer Associates in the months which are  
28 named on them? A. Yes.



1 MR. HARDING: I am going to object. The term  
2 publication is a legal term having special meaning in the  
3 field of patent law, and I ask that you ask the witness what  
4 was done with them.

5 MR. WELSH: Q. Each of these documents on the  
6 first pages contains the statement "Published Monthly by  
7 Microcomputer Associates Inc." Is that an accurate statement  
8 to the best of your knowledge?

9 THE WITNESS: A. Yes.

10 Q. Did you consider these to be publications of  
11 Microcomputer Associates Inc.?

12 A. Yes.

13 Q. Did Microcomputer Associates sell subscriptions to  
14 this publication?

15 A. Yes.

16 Q. And were these issues actually distributed in  
17 accordance with subscriptions?

18 A. Yes.

19 MR. WELSH: I would like to mark these also as  
20 Exhibit D1 through D9.

21 THE WITNESS: A.

22 Q. Did he write all of

23 A. He formatted all of

24 Q. You are

(Whereupon copies of a publication  
entitled Microcomputer Digest for  
the months July 1974 through  
March 1975 were marked Plaintiff's  
Exhibit D1 through D9 for  
identification.)

25 all MR. WELSH: Q. Referring to Exhibit D1, did you  
26 have anything to do with the preparation of this Volume 1,  
27 Number 1, July 1974 issue of Microcomputer Digest?

28 THE WITNESS: A. Yes.

1 Q. What did you have to do with that?

2 A. Myself and Mr. Lemas had final review authority.

3 Q. Did you have that authority jointly?

4 A. It was jointly exclusive you might say.

5 Q. Did you review the final copy together or separately?

6 A. Separately.

7 Q. Did you contribute any of the material in the digest?

8 A. Very seldom.

9 Q. Did you review personally every digest?

10 A. No.

11 Q. Did you review this one?

12 A. Yes.

13 Q. In its entirety?

14 A. Yes.

15 Q. Who wrote the various articles?

16 A. Mr. Darrell Crow.

17 MR. HARDING: I object to the question as being vague  
18 and ambiguous.

19 MR. WELSH: Q. Was he an employee of Microcomputer  
20 Associates?

21 THE WITNESS: A. Yes.

22 Q. Did he write all of the articles?

23 A. He formatted all the articles.

24 MR. HARDING: You are referring, Mr. Welsh, to D1 or  
25 all of the ones we've marked?

26 MR. WELSH: D1 is the only one we've been discussing  
27 so far.

28 MR. HARDING: And until you indicate otherwise, your

1 questions will be limited to D1.

2 MR. WELSH: Q. Did you supply any of the informa-  
3 tion to Mr. Crow for any of the articles in Exhibit D1?

4 MR. HARDING: I am going to object once again going  
5 into this area of testimony when it is clearly outside the  
6 agreed scope of the deposition. It is not at all related  
7 to the Tai affidavit. There has been no connection established  
8 even with the courses that were taught, and we have been overly  
9 generous in allowing broad testimony on courses on subject  
10 matter. Now, this is an entirely independent topic.

11 THE WITNESS: A. Yes.

12 MR. HARDING: Mr. Welsh, will you indicate the  
13 relevancy of the Tai affidavit to this?

14 MR. WELSH: It's the same relevance that I expressed  
15 to you the last time you questioned, toward the credibility  
16 of the witness.

17 MR. HARDING: In other words, everything you want to  
18 go into is relevant because of the credibility basis?

19 MR. WELSH: I won't make that statement.

20 MR. HARDING: Well, it's preposterous, and I think  
21 you are abusing the witness' time, and you are abusing our  
22 agreement.

23 MR. WELSH: Q. What information did you contribute  
24 for which articles, in specific D1?

25 THE WITNESS: A. I contributed some of the courses  
26 and dates listed on Page 9 and 10 of Exhibit D1.

27 Q. And do you recall which ones you contributed?

28 A. No.

1 Q. Did you participate in the selection of the subject  
2 matter for the articles to be included in this Exhibit D1?

3 A. No. I got of him about when this morning.

4 Q. Referring to the section entitled Microcomputer-  
5 Based Products on Page 4, do you know what that refers to?

6 A. The name? Microcomputer-Based Products heading on

7 Page Q. Yes. It relates to applications?

8 A. Yes. A. Just on this page?

9 Q. What? A. All of them under that heading.

10 A. Products that have a microcomputer inside of them.

11 Q. Would that be related to applications for micro-  
12 computers?

13 A. Yes. I was asking him to formulate opinions on questions

14 Q. Are the products referred to your applications?

15 A. Referred to in that section? I will agree to limit it,

16 Q. Yes. I will answer on this one. Otherwise if you go

17 A. Some are, not totally. With the same time-consuming

18 Q. Did you discuss with anyone any of these which are  
19 applications before they were included in here?

20 A. No. Q. You stated that some of those

21 Q. Under this heading Microcomputer-Based Products,  
22 which are applications and which are not?

23 MR. HARDING: Mr. Welsh, I think you are into the  
24 area of expert testimony here. Is this relevant to credibility?

25 MR. WELSH: Yes, it still is, very pertinent as to  
26 what he considers to be applications.

27 MR. HARDING: All applications are within the Tai  
28 affidavit; is that correct? That was the question.

1 MR. WELSH: Well, applications and his familiarity  
2 with them are certainly relevant as must have been evident to you  
3 when you inquired of him about them this morning.

4 MR. HARDING: I don't understand what you just said.

5 MR. WELSH: Q. Could you tell us which of the  
6 articles under the Microcomputer-Based Products heading on  
7 Page 4 of Exhibit D1 relates to applications?

8 THE WITNESS: A. Just on this page?

9 Q. Well, all of them under that heading.

10 MR. HARDING: Mr. Welsh, as long as you will not make  
11 a practice of asking opinion testimony of this witness without  
12 establishing that he had any opinions formed before the  
13 deposition, and asking him to formulate opinions on questions  
14 which you have derived somehow on subject matter outside the  
15 agreed scope of the deposition, if you will agree to limit it,  
16 then we'll let him answer on this one. Otherwise if you go  
17 through the next seven digests with the same time-consuming  
18 line of questioning, we will not allow it.

19 THE WITNESS: What was the question again?

20 MR. WELSH: Q. You stated that some of those  
21 articles relate to applications and some do not. I'm asking  
22 you to tell us which ones do and which ones do not.

23 THE WITNESS: A. I consider the ones that talk  
24 about an end user product are the ones that would be application  
25 articles. A couple of them right off don't talk about end  
26 user product. They are OEM products, hybrid microcomputer --

27 MR. HARDING: He did not ask that question. He asked  
28 under Microcomputer-Based Products. That was the question.

1 MR. WELSH: I think he's answered the question.  
2 That is one of them under Microcomputer-Based Products.

3 MR. HARDING: All right, I'm sorry.

4 THE WITNESS: And the other one called Prolog Has  
5 Eights, that is not an application article. Those are the  
6 two I see right off.

7 MR. WELSH: Q. But the others in that heading  
8 right down to the black line on Page 5 are?

9 THE WITNESS: A. The others appear to be, yes.

10 Q. Did you have anything to do with supplying informa-  
11 tion relating to the second and third paragraphs under the  
12 subheading Games Microcomputers Play on Page 6?

13 A. No.

14 Q. Were you familiar with the information in those  
15 paragraphs at the time around 1974 when the issue was published?

16 MR. HARDING: Objection to the question as vague. Are  
17 you asking when he was familiar with the particular phrase or  
18 sentence or whether --

19 MR. WELSH: The subject matter. I believe I said  
20 the subject matter.

21 MR. HARDING: No, you didn't say subject matter. So  
22 the question is the subject matter of that paragraph?

23 MR. WELSH: Yes.

24 THE WITNESS: Only because that it was in the digest.

25 MR. WELSH: Q. Did you have any information apart  
26 from that paragraph in the digest?

27 THE WITNESS: A. No.

28 Q. How about the paragraph which states "Other firms



1 such as Atari of Los Gatos, California, a producer of video  
2 electronic games, are looking into eight and sixteen bit  
3 microcomputers which they can use in an entire new line of  
4 games," were you familiar with that subject matter at the time  
5 of July, 1974?

6 A. No.

7 Q. Is it correct that you did not discuss the content  
8 of any of the articles before they were published?

9 A. What do you mean?

10 Q. Did you have anything to do with the selection of  
11 the subject matter of articles to be published in Exhibit D1?

12 A. Yes.

13 Q. What did you have to do with that?

14 A. As I stated before, Manny and I both had review  
15 authority.

16 Q. That was after the article, after the publication  
17 was prepared for printing?

18 A. Yes.

19 Q. But did you have anything to do with determining  
20 what subject matter would go into the issue?

21 A. As I said before back on Page 9 and 10, I contributed  
22 to some of the list of courses that are published.

23 Q. I believe I have referred to having anything to do  
24 with the selection of the subject matter for articles, not  
25 just the submitting of information. Did you have anything to  
26 do with the selection of the subject matter for articles as  
27 distinguished from providing information?

28 MR. HARDING:

Objection, asked and answered, ten



1 minutes ago when you first started this line of questioning.

2 THE WITNESS: I know the question, but I don't know  
3 how it was worded.

4 (Whereupon the reporter read back the previous question.)

5 THE WITNESS: A. No.

6 MR. WELSH: Q. You didn't discuss with Mr. Lemas  
7 what articles ought to go in and what ones shouldn't?

8 THE WITNESS: A. I didn't say that. My answer was  
9 not to what you just referred to.

10 Q. Well, did you discuss with Mr. Lemas what articles  
11 should go in and what shouldn't?

12 MR. HARDING: I object. He said five times he had  
13 final review authority with Mr. Lemas. I don't know how many  
14 -- I beseech you to move on. You are not even close to  
15 within the subject matter of the deposition.

16 THE WITNESS: Is there a question?

17 MR. WELSH: Yes.

18 THE WITNESS: Can you read it back?

19 (Whereupon the reporter read back the previous question.)

20 THE WITNESS: A. Sometimes we discussed. Sometimes  
21 we made a choice on our own.

22 MR. WELSH: Q. Do you recall whether you discussed  
23 this article about "GM Answers Washington With Microcomputers"  
24 on Page 6?

25 THE WITNESS: A. I don't recall discussing that  
26 with him.

27 Q. Did you have any familiarity with that subject matter  
28 at that time?

1 A. No.

2 Q. To the best of your knowlege, did the section on  
3 Education: Microcomputer Courses, Seminars, Conferences,  
4 on Pages 9 and 10 accurately reflect what conferences were to  
5 be held on the dates?

6 MR. HARDING: I object to the question on lack of  
7 foundation that this witness has any knowledge on whether those  
8 conferences took place. To the extent Mr. Welsh wants an  
9 answer, please look at each one and tell him whether you know  
10 it occurred.

11 THE WITNESS: A. I'd have to say no.

12 MR. WELSH: Q. Do you know whether the Intel  
13 Workshops occurred on the dates and places stated?

14 THE WITNESS: A. To my knowledge, they did.

15 Q. Does similar scheduling information appear in  
16 Exhibit D2?

17 MR. HARDING: We'll stipulate that scheduling information appears. Mr. Welsh, if it's similar or not,  
18 I will leave to your judgment. Don't ask this witness to  
19 form an opinion as to whether it's similar or not to a different  
20 schedule.

21 MR. WELSH: Q. Does the schedule in Exhibit D2  
22 contain similar information as to the scheduling in Exhibit D1?

23 MR. HARDING: Objection. What does similar mean?

24 MR. WELSH: Same type of information.

25 MR. HARDING: Mr. Holt, will you please tell him what  
26 it contains.

27 THE WITNESS: They both contain a list of courses,  
28

1 microcomputer courses and seminars.

2 MR. WELSH: Q. Schedules when they occur?

3 THE WITNESS: A. When they are about to occur.

4 Q. Does each of these issues contain a section like  
5 that?

6 MR. HARDING: Which issues now?

7 MR. WELSH: The other exhibits, D3 through D9.

8 THE WITNESS: A. No.

9 MR. WELSH: Q. Was Intel the source, to your  
10 knowledge, of any of the information in the articles in Exhibit  
11 D1?

12 THE WITNESS: A. Absolutely not.

13 Q. Do you know where the information was obtained?

14 A. Yes.

15 Q. Where?

16 A. Every piece of information in the digest came from  
17 news releases, national magazines or national newspapers or  
18 from our own knowledge of like workshops.

19 Q. Including the Intel workshops?

20 A. In terms of course dates for the list of courses.  
21 All the information for articles came strictly from news  
22 releases, magazines or newspapers. That was the authority we  
23 gave our editor.

24 Q. Who was that?

25 A. Darrell Crow.

26 Q. This states that -- referring to D1, you have a  
27 title of Applications Technical Advisor. Was that your title?

28 A. As far as the digest was concerned, yes.

1 Q. Did that involve any duties and responsibilities?

2 A. Yes. *technically applications.*

3 Q. Did it involve any duties with respect to applica-  
4 tions? *cannot to go in or out?*

5 A. Yes.

6 Q. What were those? *participate in a similar discussion*

7 with A. My main duty was to review the contents of the  
8 digest for technical accuracy and also for technical relevance.

9 Q. What do you mean technical relevance?

10 A. I mean was the technical discussion in the article  
11 relevant to microcomputers. If it was not, we would not  
12 publish it. *often.*

13 Q. Did you have any other duties as Applications  
14 Technical Advisor? *Mr. Crow separately?*

15 A. No.

16 Q. Did you have discussions with Mr. Crow as to what  
17 articles ought to be included in the digest?

18 A. That was part of our review.

19 Q. That was after the selection had been made or in  
20 connection with what would go to make up each issue?

21 A. In connection with what would go to make up each  
22 issue. *He works for a company called Zellerbach.*

23 based Q. So you had discussions with him before the issue  
24 was made up? *you know what position he has with Zellerbach?*

25 A. Yes. *not Applications specialist.*

26 Q. And did that discussion include discussions with  
27 respect to the applications that were to be included in each  
28 issue? *Do you know what city in Connecticut?*

1 A. It was a discussion in general of what was to be  
2 included, not specifically applications.

3 Q. You didn't discuss each article with him as to  
4 whether or not to go in or not?

5 A. No.

6 Q. Did anybody else participate in a similar discussion  
7 with Mr. Crow? I've seen it before.

8 A. Yes.  
9 Q. Who? OF May 29, 1974?

0 A. Mr. Lemas.

1 Q. Did you do it as a group of three?

2 A. Often.

3 Q. Did you also confer with Mr. Crow separately?

4 A. Me with Mr. Crow separately?

5 Q. Yes.

6 A. If Mr. Lemas was off on a job, I would.

7 Q. Do you know where Mr. Crow is today?

8 A. Yes.

9 Q. Where?

0 A. Massachusetts.

1 Q. Do you know where?

2 A. He works for a company called Zentec. They are  
3 based in Santa Clara.

4 Q. Do you know what position he has with Zentec?

5 A. District Applications Specialist.

6 Q. Do you know what city in Massachusetts?

7 A. No, I don't. I'm sorry, it's Connecticut.

8 Q. Do you know what city in Connecticut?

1 A. No, I don't.

2 Q. I hand you another document which was among those  
3 you produced, and it appears to be a letter dated May 29,  
4 1974, four pages, from M. R. Lemas to Mr. Phil Tai, Manager  
5 Applications and Training, Intel Corporation. I ask if you  
6 are familiar with that document?

7 A. Yes, I've seen it before.

8 Q. So far as you know, was that the title of Phil Tai  
9 as of that date of May 29, 1974?

10 A. Yes.

11 MR. HARDING: I'm going to object to the question to  
12 no showing that he has any knowledge of Phil Tai's title.

13 MR. WELSH: Could you mark this as Exhibit E please?

14 (Whereupon a letter dated May 29,  
15 1974 from M. R. Lemas to Mr. Phil  
16 Tai, was marked Plaintiff's  
Exhibit Holt E for identification.)

17 MR. WELSH: Q. How are you familiar with this  
18 document, Exhibit E?

19 THE WITNESS: A. I saw it last night as I was  
20 collecting together the information.

21 Q. Had you seen it before?

22 A. No.

23 Q. How did you determine the subject matter of it last  
24 night?

25 A. I saw Mr. Tai's name on it.

26 Q. As of the date of May 29, 1974, the date of this  
27 letter or about that time, do you recall having discussions  
28 with Mr. Lemas about Intellec-4 and Intellec-8 systems in

1 preparation for summer workshops?

2 A. Yes.

3 Q. What do you recall about that?

4 A. I recall that Intel wanted us to continue teaching  
5 the workshops with their new equipment. So if there was any  
6 procedural changes, that we would have to make the necessary  
7 adjustments in the courses.

8 Q. Were new materials prepared for use in the Intellec  
9 workshops?

10 A. Ultimately there was, yes.

11 Q. Who prepared those materials?

12 A. Mr. Lemas and myself.

13 Q. Did you prepare them, the two of you completely?

14 A. Were we the only two involved in preparing the  
15 material?

16 Q. Yes. When Mr. Norton was there, but not completed  
17 when Mr. Norton may have helped. He was at Compata at  
18 the time.

19 Q. Anybody else?

20 A. Not to my knowledge.

21 Q. This was at the time after you and Mr. Lemas had  
22 left Compata; is that correct?

23 A. What's the date? Yes.

24 Q. May 29, 1974.

25 A. Oh, yes.

26 Q. Is it correct then that you and Mr. Lemas prepared  
27 the materials?

28 MR. HARDING: Mr. Welsh, he just answered that question.



1 He didn't answer it the way you just asked.

2 MR. WELSH: Q. Is your answer the same; that  
3 Mr. Norton might have helped you or did help you with the  
4 preparation of the materials for the Intellec workshop?

5 THE WITNESS: A. Which one are you asking? There  
6 are two questions.

7 MR. WELSH: Q. Did Mr. Norton help you and Mr.  
8 Lemas in the preparation of materials for the Intellec  
9 workshops? Do you have an approximate date as to when it was

0 pre. THE WITNESS: A. In the summer of 1974.

1 MR. RIFKIN: Mr. Welsh, I object to putting a  
2 document in front of him when he's testifying he has never seen  
3 it before last night, and he has not ever read it.

4 THE WITNESS: I'd like to clarify the confusion. I  
5 would say part of this material was prepared while we were  
6 still at Compata when Mr. Norton was there, but not completed  
7 when Manny and I left for Microcomputer Associates.

8 MR. WELSH: Q. The letter contains the statement  
9 "From our discussions, it is apparent that we will not be  
10 participating in the preparation of materials for the Intellec  
11 workshops." You did, however, participate; isn't that what you  
12 just said? of Microcomputer Associates?

13 THE WITNESS: A. Yes.

14 MR. Q. I now hand you a document entitled Microcomputer  
15 Associates Inc., Capabilities Summary.

16 It's a one-page document with written materials on both  
17 sides. I'll ask if you are familiar with that document?

18 A. Yes.

1 Q. How are you familiar with it?

2 A. I helped prepare the document.

3 Q. Did you work with someone else in the preparation?

4 A. Yes.

5 Q. Who?

6 A. Mr. Lemas.

7 Q. When was the document prepared?

8 A. The exact date is difficult to say.

9 Q. Do you have an approximate date as to when it was  
10 prepared?

11 MR. HARDING: Don't speculate. If you know, give your  
12 best recollection.

13 THE WITNESS: A. I really don't know.

14 MR. WELSH: Q. Do you know the purpose for which  
15 it was prepared?

16 THE WITNESS: A. Yes.

17 Q. What was that?

18 A. To inform our potential customers that -- to let  
19 them know our capabilities and some previous work that we've  
20 participated in.

21 Q. Do you know whether it was prepared early in the  
22 existence of Microcomputer Associates?

23 MR. HARDING: As long as you know what early means,  
24 Mr. Holt, you may answer.

25 THE WITNESS: A. I'd say it was prepared within the  
26 first year.

27 MR. WELSH: Q. It refers to an Item No. 6 on Page  
28 2 under Publications to the Microcomputer Digest, and says

1 "Microcomputer Associates publishes monthly the Microcomputer  
2 Digest."

How did it change?

3 At the time this was prepared, had the Microcomputer Digest  
4 already been published, at least one issue?

5 THE WITNESS: A. Yes. I'd like to build up our

6 Q. So this would have been prepared after July of 1974?

7 A. Yes. I'd like Microcomputer Associates begin the

8 MR. WELSH: I'd like to ask the reporter to mark

9 this document as Exhibit F.

10 November of 1974

(Whereupon a document with the  
letterhead Microcomputer Associates  
Inc. entitled "Capabilities  
Summary" was marked Plaintiff's  
Exhibit Holt F for identification.)

11 MR. WELSH: Q. Does this accurately reflect the

12 business that Microcomputer Associates was engaged in at the  
13 time the document was prepared?

14 MR. HARDING: I am going to object to the question as  
15 being vague; whether the question means that everything that  
16 is referred to there was the business or whether it was the  
17 capability to do that or exactly what the scope of the question

18 is. A. We didn't get much, if any, feedback from our

19 THE WITNESS: What was the question exactly?

20 MR. WELSH: Read it back. I don't know.

(Whereupon the reporter read back the previous question.)

21 THE WITNESS: A. This is an accurate summary of  
22 the business at that time.

23 MR. WELSH: Q. Does Exhibit F accurately reflect  
24 the business from that time until the time you were acquired  
25 by Synertek?

1 THE WITNESS: A. No.

2 Q. How did it change?

3 A. We did not continue in the publication field. We  
4 did not continue teaching workshops and seminars. We accelerated  
5 our development of our own standard product to build up our  
6 manufacturing area.

7 Q. When did Microcomputer Associates begin the  
8 manufacture of products?

9 A. Our first hardware product was introduced in October-  
10 November of 1974.

11 Q. Was that an end user product?

12 A. No.

13 Q. OEM?

14 A. OEM.

15 Q. What was the product?

16 A. It was a set of microcomputer cards which, when put  
17 together, can be programmed to perform an application.

18 Q. What type of applications were the products of  
19 Microcomputer Associates used in?

20 A. We didn't get much, if any, feedback from our  
21 customers. It was usually proprietary information. We were  
22 selling products mail order. We just don't know.

23 Q. You don't know what applications your products were  
24 used in?

25 A. Not specifically.

26 Q. Generally?

27 A. Microprocessor control generally.

28 Q. Did you work as a consultant for any microprocessor

1 applications other than Ramtek?

2 A. Yes.

3 Q. And what were those?

4 MR. HARDING: Is there any time frame, Mr. Welsh?  
5 What's the reasonable time frame that pertains to the Tai  
6 affidavit?

7 MR. WELSH: 1973-1974 time frame.

8 MR. HARDING: Is this a memory test, or do you want  
9 him to go over and look at the documents he brought?

10 MR. WELSH: What he recalls.

11 MR. HARDING: Mr. Katz is pointing to something that  
12 might be helpful.

13 MR. WELSH: I'd like to have his best recollection  
14 first.

15 THE WITNESS: I would say the one that's the most  
16 glaring in my mind is the one listed here, the training film  
17 controller.

18 MR. WELSH: Q. Any others come to mind?

19 THE WITNESS: A. Not in the '73-'74 time frame.

20 Q. I hand you now what are two pages that appear to be  
21 related which were produced with the documents on last Tuesday,  
22 and ask if those are familiar to you?

23 A. Yes.

24 Q. What do you recognize them to be?

25 A. This is a list of the jobs for Microcomputer  
26 Associates.

27 Q. Could you explain how that was used?

28 A. When the time came for us to bill the customer for

1 a particular job, then our secretary would give it a job number,  
2 and it was recorded on a sheet.

3 Q. So a number was assigned to a job at the time it was  
4 to be billed?

5 A. Generally, yes.

6 Q. By referring to this two-page document, is your  
7 recollection refreshed as to any other applications for  
8 microprocessors on which you might have worked as a consultant  
9 in 1973-74?

10 A. Yes.

11 Q. How is it refreshed?

12 A. Job 121 for Zentec. We designed a printer controller  
13 using a microprocessor. That's the only other one I see.

14 Q. Did you do any consulting work with respect to  
15 microcomputer applications individually as distinguished from  
16 your work with Microcomputer Associates during the '73-'74  
17 period?

18 A. Can you say that again?

19 (Whereupon the reporter read back the previous question.)

20 THE WITNESS: A. Are you referring to work that I  
21 would have billed separately from the company?

22 MR. WELSH: Q. Yes.

23 THE WITNESS: A. No.

24 MR. WELSH: Could you mark these as G1 and G2 please.

25 (Whereupon two documents both en-  
26 titled "Contracts" were marked  
27 Plaintiff's Exhibit Holt G1 and  
28 Holt G2 respectively for  
identification.)

MR. WELSH: Q. Do you know whether these lists

1 include all of the jobs that there were for Microcomputer  
2 Associates? Did you discuss it with anyone else at Intel?

3 THE WITNESS: A. Yes, they do.

4 Q. And does that extend up to the time when Micro-  
5 computer Associates was acquired by Synertek?

6 MR. HARDING: Object to the question, lack of founda-  
7 tion that he has any knowledge or recollection.

8 THE WITNESS: A. It does not include the last job,  
9 which is a job with Synertek. Do you recall having any discussion

10 with MR. WELSH: Q. To your knowledge, it includes  
11 all other jobs? A. No, I don't.

12 THE WITNESS: A. To the best of my knowledge, yes.

13 Q. And the controller you designed for Zentec, what  
14 microprocessor? such as turning on a light?

15 A. 8008. I have to refer to him for that.

16 Q. Did you discuss that application with anyone at  
17 Intel? for any problem?

18 A. No. Tai was the designer of the first set of

19 Q. Then you did not discuss it with Dr. Tai? those cards

20 A. Correct. That Intel delivered to the customers was

21 Q. What microprocessor did the training film controller  
22 use?

23 A. According to the description I read on Exhibit F --

24 MR. HARDING: I instruct the witness to answer  
25 according to knowledge. the only one to ask had there been some

26 THE WITNESS: you have 4004. those at the conferences who raised

27 MR. WELSH: Q. Did you discuss that application  
28 with Dr. Tai? yes.



1 THE WITNESS: A. No.

2 Q. Did you discuss it with anyone else at Intel?

3 A. No.

4 MR. HARDING: Mr. Holt, how are you holding up as far  
5 as your cold and health goes?

6 THE WITNESS: I feel hot.

7 MR. HARDING: Mr. Welsh, can we please expedite this  
8 thing?

9 MR. WELSH: Q. Do you recall having any discussions  
10 with Dr. Tai regarding how microprocessors work?

11 THE WITNESS: A. No, I don't.

12 Q. Do you recall having any discussions with him in the  
13 '73-'74 time period regarding how to use the microprocessor for  
14 a particular job such as turning on a light?

15 A. No. I have no need to refer to him for that.

16 Q. Did you have any discussion with him about micro-  
17 processors for any problems?

18 A. Mr. Tai was the designer of the first set of  
19 cards that we used in the course. In learning how those cards  
20 work, if the manual that Intel delivered to the customers was  
21 not clear, then Mr. Tai would be the one to answer those  
22 questions.

23 Q. Did you present those questions to him?

24 A. I don't specifically remember asking him any,  
25 but he would have been the only one to ask had there been some.

26 Q. Did you have attendees at the conferences who raised  
27 questions about the manual?

28 A. Oh, yes.

1 Q. Did you consult with Dr. Tai about those questions?  
2

3 A. Mr. Lemas did mostly.

4 Q. When you say first set of cards, what do you mean  
5 by cards?

6 A. The printed circuitboard with the microcomputer on  
7 it.

8 Q. What was the purpose of the set of cards that Mr. Tai  
9 designed?

10 A. To demonstrate the capabilities of the circuits that  
11 Intel produced.

12 Q. Was a set designed, so far as you know, just for  
13 use in the course?

14 A. No.

15 Q. Did the cards have any name other than cards?

16 A. Sometimes they were referred to as boards, PC  
17 boards.

18 Q. What microprocessor was used in those boards?

19 A. 4004 and 8008.

20 Q. When you say the purpose of the cards or boards was  
21 to demonstrate capabilities of the microprocessor, to whom were  
22 they to be demonstrated if you know?

23 A. To the customers of Intel.

24 Q. And they were also used in the conduct of the course?

25 A. Yes.

26 Q. When you and Mr. Lemas prepared your initial  
27 materials for the course, did you consult with Mr. Tai then  
28 about the cards and how the microprocessors worked?

A. I did not.

1 Q. You had no discussion with Dr. Tai at that time?

2 A. I did not. Mr. Lemas may have, but I did not.

3 Q. Did Intel have a name for the cards? *out with you?*

4 A. For the card set, they had a name.

5 Q. What was that? *r what you told him?*

6 A. MCS-4 and MCS-8.

7 Q. In your testimony, you mentioned an advertisement  
8 Intel has where credit machines was listed. Do you recall that?

9 A. Yes. *I had called Mr. Harding and told him of the*

10 Q. *conv* I show you a copy of what was marked as Hum *flat*  
11 Deposition Exhibit 2, and ask if that appears to you to be a  
12 copy of the ad that you referred to? *he said that before we*

13 A. This looks like one of a series of ads that they  
14 came out with. *he did Mr. Harding tell you?*

15 Q. You do not know whether that's the ad that you  
16 referred to with respect to that application of the credit *value*  
17 machines? *Mr. Katz, so I can see whether it gets into attorney-*

18 A. Not specifically.

19 Q. Do you know the source of the information regarding  
20 those various applications listed in that ad? *a question in*

21 A. No, it's very privileged information. *Mr. Katz.*

22 Q. Do you know whether Intel in the '73-'74 time period  
23 had any list or file of applications for microprocessors?

24 A. Not to my knowledge. *did he tell you to meet with Mr.*

25 Q. Do you remember any discussion with Mr. Katz over  
26 the telephone about two and a half to three months ago? *ay*

27 A. We did talk around that time.

28 Q. Do you recall discussing with Mr. Katz an application

1 list or file at Intel? etc. etc.

2 A. No. you recall discussing this with me at that time?

3 Q. Do you remember Mr. Katz asking to meet with you?

4 A. Yes. same as I referred to earlier? I do not recall.

5 Q. Do you remember what you told him?

6 A. Generally yes. what you said about that to Mr.

7 Q. What did you tell him?

8 A. The essence was that I had him call back later.

9 In the meantime, I had called Mr. Harding and told him of the  
10 conversation with Mr. Katz. Because of the relationship that  
11 I had with Mr. Harding, I didn't understand the legal ramifications.  
12 So when Mr. Katz called back, he said that before we  
13 get together to talk to Mr. Harding.

14 Q. What did Mr. Harding tell you?

15 A. He told me that --

16 MR. HARDING: Do you have any particular subject matter  
17 in mind, Mr. Welsh, so I can see whether it gets into attorney-  
18 client privilege? I don't know.

19 MR. WELSH: About meeting with Mr. Katz.

20 MR. HARDING: Go ahead and answer the question in  
21 limited fashion of how I told you to deal with Mr. Katz.

22 THE WITNESS: To my knowledge, Mr. Harding said that  
23 if Mr. Katz met with me, that he'd like to be there.

24 MR. WELSH: Q. Did he tell you to meet with Mr.  
25 Katz?

26 THE WITNESS: A. Did he just come out and say  
27 "Don't meet with him"?

28 Q. Yes.

1 A. I don't believe so. I don't believe about their customer

2 Q. Do you recall discussing this Intel ad that's been  
3 logged Hum Exhibit 2 with Mr. Katz?

4 A. The same ad I referred to earlier? I do recall  
5 mentioning that to Mr. Katz. I don't recall mentioning it.

6 Q. Do you remember what you said about that to Mr. you  
7 Katz?

8 A. What I do remember is that I indicated to him that  
9 the article had a list of applications which most likely was  
10 generated by one of the staff at Intel. That's the extent of  
11 my knowledge of the ad.

12 Q. Did you have any particular member of the staff at  
13 Intel in mind?

14 A. Yes. I saw the affidavit of Dr. Tai, dated

15 August 1977. Who?

16 A. Mr. Hal Feeney and Mr. Hank Smith.

17 Q. Are they both still employed at Intel?

18 A. Mr. Hal Feeney is.

19 Q. Do you recall any discussion about Dr. Tai during  
20 the conversation with Mr. Katz?

21 A. Yes. I picked up during my last deposition.

22 Q. What do you remember in that regard?

23 A. I remember telling Mr. Katz the names of some of the  
24 staff people which would have included Mr. Tai.

25 Q. Some of the staff people with respect to what? the

26 A. At Intel in their microcomputer group.

27 Q. Well, in what connection did you mention those  
28 staff people?

1 A. Ones who would have knowledge about their customer  
2 applications.

3 Q. At any particular time period?

4 A. As I remember, our conversation was centered around  
5 this advertisement, over this series of advertisements.

6 Q. Do you recall what question Mr. Katz asked that you  
7 answered by giving the names of those staff members?

8 A. No.

9 Q. In your work as an expert for defendants, are you  
10 being compensated?

11 A. Yes.

12 Q. Have you already been paid any fees by defendants?

13 A. Yes.

14 Q. Did you ever see the affidavit of Dr. Tai, dated  
15 August 1st, 1980?

16 A. No.

17 Q. Did you ever see a copy of it?

18 A. No.

19 Q. Did you have any understanding of what this lawsuit  
20 is before you were retained as an expert by defendants?

21 A. Only what I picked up during my last deposition.

22 Q. What was that?

23 A. You asked me what my general knowledge is of the law-  
24 suit.

25 MR. HARDING: As it was when he picked it up from the  
26 last deposition?

27 MR. WELSH:

Yes.

28 THE WITNESS:

Okay. I knew or I gathered Bally had

1 a patent that was being challenged. Generally that was what  
2 I gathered, and that there were other involvements of other  
3 companies around that time frame such as Ramtek and Atari.

4 MR. WELSH: Q. Were you informed as to why you  
5 were called as a witness?

6 MR. RIFKIN: Called as a witness, when and by whom?

7 MR. WELSH: In the prior deposition. It has to do  
8 with his credibility.

9 MR. HARDING: That is too far abreast. That question  
10 was probably answered or asked and answered at a deposition  
11 in a timely fashion. That has nothing to do with the Tai  
12 affidavit whatsoever. We're going over and rehashing general  
13 discovery, and discovery, sir, is closed.

14 MR. WELSH: Q. Even after your previous deposi-  
15 tion and clear up to the time when you were retained as an  
16 expert by the defendants, I would like to know if you had any  
17 understanding of the significance of your testimony in the  
18 lawsuit.

19 THE WITNESS: A. Significance of my testimony?

20 Q. Yes.

21 MR. RIFKIN: I object to the question as vague and  
22 ambiguous.

23 THE WITNESS: A. I'd say no.

24 MR. WELSH: Q. Did anyone inform you of the  
25 significance of your testimony?

26 THE WITNESS: A. No.

27 Q. Did anyone inform you why it was relevant to the  
28 lawsuit?



1 A. At the time of the testimony?

2 Q. At any time prior to the time you were retained by  
3 defendants as an expert.

4 A. No.

5 Q. Nobody ever informed you about that?

6 A. No.

7 Q. After you gave your deposition before, did you ever  
8 have any discussion or meet with Lee Mitchell, the attorney  
9 for Gottlieb?

0 A. Only before the deposition.

1 Q. Did you have any discussions or meetings with any  
2 other attorneys for the defendants after your deposition?

3 A. Yes.

4 Q. And before you were retained as an expert and after  
5 the deposition.

6 A. And before I was retained?

7 Q. Yes.

8 A. No.

9 Q. Have you had any conversations with counsel for  
0 defendants regarding any facts which occurred prior to your  
1 being retained as an expert, and that's conversations before  
2 or after you were retained.

3 MR. RIFKIN: I object to the question as indefinite  
4 and vague, but I instruct the witness if he understands it,  
5 and only if he understands it, he can answer.

6 THE WITNESS: I'd like to have it repeated.  
7 (Whereupon the reporter read back the previous question.)

8 THE WITNESS: A. Yes.

1 MR. HARDING: I am going to object to the use of the  
2 term facts. This supposedly is a factual deposition, yet by  
3 whose definition, I don't know. So I'm going to object to  
4 Mr. Welsh's question as to what's a fact.

5 MR. WELSH: Q. When did you have such conversa-  
6 tions?

7 THE WITNESS: A. Approximately April, May of this  
8 year.

9 Q. With whom did you have the conversations?

10 A. Mr. Harding.

11 Q. Where were they held?

12 A. By telephone?

13 Q. Were there more than one conversation?

14 A. I believe so, yes.

15 Q. How many were there?

16 A. I don't recall the exact number.

17 Q. And approximately what length were they?

18 A. Length of the conversation?

19 Q. Yes.

20 A. Five to ten minutes.

21 Q. Could you give us the substance of those conversations?

22 MR. HARDING: Now, Mr. Welsh, I am going to instruct  
23 the witness not to answer broad-based questions concerning  
24 communications between Mr. Holt and any of the attorneys who  
25 have retained him on an expert basis. You have broad latitude  
26 on inquiring as to factual matters. And any materials, any  
27 matters that were discussed pertinent to this deposition you  
28 have gone into. But as general communications between me and

1 Mr. Holt, that communication I'm not going to allow testimony.

2 MR. WELSH: Are you instructing him not to answer?

3 MR. HARDING: Yes.

4 MR. WELSH: Q. Do you refuse to answer?

5 MR. HARDING: I will allow you to ask any factual  
6 question you want concerning this deposition or matters  
7 discussed in this deposition. But a broad-based inquiry into  
8 what I did with this witness after we retained him, I consider  
9 that work product. You are free to ask whatever questions you  
0 want and facts.

1 MR. WELSH: Q. Do you refuse to answer the  
2 question?

3 THE WITNESS: A. Yes, on advice of Mr. Harding.

4 Q. Would you give us the substance of those conversa-  
5 tions insofar as they concern factual occurrences that you are  
6 aware of prior to the time you were retained as an expert,  
7 and occurrences which relate to this case?

8 MR. RIFKIN: I object to the question as being com-  
9 pound, Mr. Welsh.

0 MR. HARDING: And that's a different question, sir,  
1 than you posed the last time.

2 MR. WELSH: I realize that.

3 MR. HARDING: Do you understand the question, Mr.  
4 Holt?

5 THE WITNESS: Not exactly. It seems kind of vague  
6 or general.

7 MR. WELSH: Q. Did it seem vague before Mr.  
8 Harding asked you whether you understood it?

1 THE WITNESS: A. Yes.

2 Q. Do you understand that we are talking about  
3 conversations that you have had with Mr. Harding either before  
4 or after you were retained as -- I'm sorry -- do you understand  
5 that we're talking about conversations that you had with Mr.  
6 Harding in April or May? I'm asking what was the substance of  
7 those conversations with respect to factual matters that you  
8 are aware of that occurred prior to your being retained as an  
9 expert?

10 MR. HARDING: And I'll allow Mr. Holt to answer that  
11 question as to facts, being especially cautious not to reveal  
12 expert opinions formed and transmitted to me or any other  
13 attorney for defendants. Historical facts as I understand,  
14 Mr. Welsh?

15 MR. WELSH: Yes.

16 MR. HARDING: If you have a question as to what's  
17 a historical fact and what's a conclusion or opinion, then  
18 you may discuss it with me, and then answer it. But as long as  
19 you have no question, you may answer. But don't speculate.

20 THE WITNESS: There was a discussion on the Bally  
21 patent itself.

22 MR. HARDING: That is not a factual discussion, and  
23 you are not going to -- I'm not going to allow testimony on  
24 discussions we've had about the Bally patent.

25 MR. WELSH: Q. Were there any factual matters of  
26 occurrences that you are aware of that were discussed in those  
27 conversations with Mr. Harding in April or May, occurrences  
28 in the 1973-1974 time frame?

THE WITNESS: A. Apparently I don't understand what's considered factual.

Q. Did you discuss with him your knowledge of work by others on pinball applications for microprocessors?

A. My knowledge of work by others?

MR. HARDING: This is in what time frame, Mr. Welsh?

MR. WELSH: 1973-1974.

THE WITNESS: A. I don't recall.

MR. WELSH: Q. Did you discuss with him your knowledge of any applications of microprocessors to pinballs in the year 1975?

THE WITNESS: A. The same answer as before; I don't recall.

Q. Did you discuss with him your acquaintance with any personnel of Atari Corporation working on microprocessors in the 1973 to 1975 time frame?

A. No.

Q. Did you discuss with him your acquaintance with any Atari personnel during that period?

A. No.

Q. Are you familiar with Cyan Engineering in Grass Valley?

A. Yes.

Q. Are you aware that they were a part of Atari at that time?

A. Yes.

Q. So when I ask about Atari, do you include Cyan in your answer?

A. I wasn't thinking about them, but if you were to ask it again, the answer would be the same.

Q. In your telephone conversation with Mr. Katz in July, do you recall telling him about your acquaintance with Steve Mayer?

A. Yes.

Q. Do you recall telling him that you recall Steve Mayer being one of the people attending the Intel workshop which you and Mr. Lemas gave in December of 1973?

A. I didn't tell him the exact date. I did tell him that Steve attended the workshop.

Q. You don't recall telling him what date it was?

A. No.

Q. Do you recall what the workshop he attended was?

A. No, I don't.

Q. Do you recall telling him that you have seen Steve Mayer since that time, that is 1973 from time to time?

A. Yes.

Q. What did you tell him in that regard?

A. That Steve came into our office at Microcomputer Associates to talk to Manny about an application, and my memory is shaking hands with him and chatting with him a little bit.

Q. When was that?

A. It must have been in '75.

Q. Do you recall telling Mr. Katz that you have seen Steve Mayer from time to time on the order of once a year?

A. No.

MR. RIFKIN: I object to the question as leading,  
unnecessarily so.

MR. WELSH: Q. Did you discuss with Mr. Harding  
in your conversations in April or May whether you attended  
trade shows?

THE WITNESS: A. Yes.

Q. What did you discuss with him in that regard?

A. I'm not sure what vein it was in. We were talking  
about something, and I mentioned trade shows. I don't know if  
it was with respect to us teaching seminars at trade shows or  
if we had an exhibit at one.

Q. Did you discuss the MOA Show in Chicago in 1974?

A. No, never heard of it.

Q. Never heard of AMOA?

A. No.

Q. Do you recall telling Mr. Katz that you had met with  
Steve Mayer at trade shows?

A. No, definitely not.

Q. Do you attend trade shows?

A. Yes.

Q. Did you attend trade shows back in the period 1973  
to 1975?

A. Yes.

Q. What trade shows did you attend?

A. Westcon.

Q. Any others?

A. In that time period, that's the only one I went to.

Q. Do you recall telling Mr. Katz in the July



conversation with him about seeing Steve Mayer at any conferences?

A. As opposed to trade shows?

Q. Yes.

A. No, I don't recall.

Q. Did you discuss with him the Asilomar conference in 1975?

A. Not to my knowledge.

Q. Did you discuss that conference with Mr. Harding?

A. Not to my knowledge.

Q. Did you attend that conference?

A. I attended one Asilomar conference. That is approximately the same time frame?

Q. Spring of 1975.

A. Yes.

Q. Do you recall whether there was any discussion at that conference about microprocessor control of pinball machines?

A. I heard no discussion at all on that subject.

Q. At that conference?

A. Right.

Q. Are you acquainted with Gamond Schulz?

A. Yes, I knew him.

Q. Are you aware as to whether Gamond Schulz gave a paper at that conference at Asilomar in the spring of 1975?

MR. HARDING: ask Mr. Welsh, does this pertain to the Tai affidavit?

MR. WELSH: It pertains to this witness' credibility.

MR. HARDING: Credibility, I know. Everything pertains to credibility.

THE WITNESS: Gamond gave a paper at the conference the following year after I attended.

MR. WELSH: Q. What year did you attend?

THE WITNESS: A. I said I thought it was approximately the '75 time frame. It might have been '74. It might have been '76. I've only been to one.

Q. Do you remember whether Steve Mayer was there or not?

A. I don't recall meeting Steve at the Asilomar conference.

MR. HARDING: Mr. Welsh, we're getting very close to being absolutely out of line. I think we've passed the line.

MR. WELSH: Q. Have you talked to any persons at Intel concerning the facts or documents relating to this case?

THE WITNESS: A. Yes.

Q. When did you do that?

A. Approximately three or four months ago.

Q. What did you ask them in that regard?

A. I asked them for pricing information around the time frame '71, '72, '73 for MCS-4 chips.

Q. Who did you talk to?

A. Mr. Hal Feeney.

Q. Did you ask for any documents relating to the courses, the workshops that you and Mr. Lemas gave?

A. No.

Q. Did you ask for any other documents relating to any other subjects?

A. No.

Q. Did you discuss anything else with Feeney?

A. No.

Q. Or did you have any conversations with anyone else at Intel about this case or facts relating to it?

A. No.

Q. Did you discuss with Mr. Lemas anything about his deposition after he gave it last Tuesday?

A. Yes.

Q. What was the substance of your discussion?

A. He said that you guys yelled a lot. He said that was a waste of time.

Q. Did he discuss his testimony with you in any respect?

A. No, he wouldn't.

Q. Do you know whether there might be any more documents other than the ones you've produced that respond to the subpoena?

MR. HARDING: I object to the question. It assumes a fact not in issue, that the documents produced today respond to the subpoena. It's a fact not established.

Mr. Holt, so the record will be clear, when answering this question I want you to address the scope of the documents that you produced.

THE WITNESS: I was advised by Mr. Ted Neils to be completely open and produce all the documents that I could possibly find. In doing that search, the documents I came up

with were what was available. There were several documents that I brought at the last deposition which I could not find, and I presume those are the ones that I have not received back.

MR. WELSH: Q. Do you know of any other place where you did not search this time that there might be other documents?

THE WITNESS: A. Not pertaining to this deposition.

Q. I hand you now a multipage document which was among those which you produced, and ask if you recognize it. It bears a title "A Look at Microcomputers: A Tutorial Survey," and it is written by Ray M. Holt and Manny R. Lemas, bearing a date November 12, 1973. Are you familiar with that document?

A. Yes, I am. Manny and I jointly prepared the

Q. Will you tell us what the document is?

A. It is a copy of the first draft that we sent to Electronic Design for submitting an article for publication.

Q. Is it a paper prepared by you and Mr. Lemas?

A. Yes.

Q. What is the significance of the date November 12, 1973?

A. Our secretary usually thinks like that. If she can remember, she usually stamps before she files them.

Q. Was the paper ever published?

A. Yes.

Q. Do you know what issue?

A. No. A copy of the actual publication is in the box there somewhere.

Q. What was the publication in which it appeared?

1 THE WITNESS: A. Computer Design.  
2  
3 MR. RIFKIN: Mr. Welsh, approximately fifty minutes  
4 ago you indicated you were almost finished. This witness has  
5 got a problem with his health at the moment, and we intend to  
6 do some cross-examination. Where do we stand?

7 MR. WELSH: We're almost finished.

8 MR. RIFKIN: That's what you said fifty minutes ago.

9 MR. HARDING: And the last three hours have been out-  
0 side the scope of our agreement.

1 MR. WELSH: Q. On Page 3, this paper appears  
2 with the heading Application of Microcomputers. Did you have  
3 anything to do with the preparation of that section?

4 THE WITNESS: A. 1 Manny and I jointly prepared the  
5 entire article.

6 Q. 2. Including that section?

7 A. Yes.

8 MR. WELSH: Could we mark this as the next exhibit?

9 (Whereupon a document entitled  
0 "A Look At Microcomputers: A  
1 Tutorial Survey," written by  
2 Ray M. Holt and Manny R. Lemas,  
3 was marked Plaintiff's Exhibit  
4 Holt H for identification.)

5 MR. WELSH: Q. Also produced in a folder marked  
6 MAI Info were three glossy photographs marked on the back with  
7 the stamp Melgar Photographers, Mountain View. I ask you if  
8 you recognize those photographs, and can you tell us briefly  
9 what they are?

0 THE WITNESS: A. Yes. I do recognize them.  
1 These are photographs that Intel contracted to have made. They

were posed pictures of a simulated workshop for submission in an article that was being written by Electronic Design News Magazine.

Q. One of those pictures appears on a page of Exhibit B, does it not?

A. Correct.

Q. Is that the one which has the number 6547-7 on the back?

A. No.

Q. Is it the one that has the number 6547-5 on the back?

A. Yes.

MR. WELSH: I'd like to have these identified as Exhibits 11, 12 and 13, with 11 being number 6547-5, 6547-10 being 12, and 6547-7 is Exhibit 13.

Q. (Whereupon three photographs identified on the back with the numbers 6547-5, 6547-10 and 6547-7 were marked Plaintiff's Exhibits 11, 12 and 13 respectively for identification.)

MR. WELSH: Q. Can you identify the persons in

Exhibit 11, going left to right?

THE WITNESS: A. Phil Tai, myself, Bob Garrow and Manny Lemas.

Q. Would you also identify from left to right the persons in Exhibit 12?

A. Phil Tai, Manny Lemas, myself and Bob Garrow.

Q. Would you also identify from left to right the persons in 13?

A. Phil Tai, myself, Bob Garrow, Manny Lemas.

Q. Does the card set that Dr. Tai designed for the MCS-4 or MCS-8 appear in Exhibit I3?

A. Yes.

Q. Could you describe where that is in the exhibit?

A. The cards that Dr. Tai is handling, the card set in the foreground.

Q. Where was the picture taken?

A. At Intel.

Q. Is that in Dr. Tai's office, or was that in Dr. Tai's office at the time?

A. No.

Q. Was it near his office?

MR. HARDING: Objection. What's near? You are asking how near?

MR. WELSH: Q. Where was it?

THE WITNESS: A. It was in the conference room.

Q. Where is that in relation to Dr. Tai's office?

THE WITNESS: A. Approximately one hundred feet.

Q. I hand you four handwritten pages of notes that came out of the folder that you produced marked Compata History Course Outlines, and ask you if you recognize those pages of notes?

A. Yes.

Q. What do you recognize them to be?

A. It's a description of a proposed outline for a

course for Intel.

Q. Do you recognize the handwriting?



A. Yes.

Q. Whose is it?

A. There are two sets of handwriting, myself and Mr. Lemas.

Q. Could you indicate which is yours and which is Mr. Lemas'?

A. Mine is the pencil and Mr. Lemas' is what's in ink.

Q. Then is it correct that you wrote the portion on the fourth page which says Day 3, PM, three hours, with the heading Specific Applications underlined and the phrase "A detailed discussion covering specific applications. Emphasis will be on problem definition and hardware/software trade-offs"; is it correct that you wrote that?

A. That's my handwriting, but I didn't generate the wording. Most of that was copied from previous outlines.

Q. What was the purpose of preparing this outline?

A. I really don't recall. We had so many outlines, there isn't really enough here. Obviously, it was for an 8080 course at Intel.

Q. Do you know when it was prepared?

A. No.

Q. I will place it in the file from which it came and perhaps there was something else in the file that will help you answer what the purpose of it was or when it was prepared.

A. This is Mr. Lemas' file. This is really no help.

MR. WELSH: Okay. I'd like to mark that as Exhibit

J.

(Whereupon four pages of handwritten notes entitled "Proposed Outline of a Three-Day Intel 8080 Course" was marked Plaintiff's Exhibit Holt J for identification.)

MR. WELSH: Q. I hand you a one-page sheet with handwriting on both sides and ask you if you recognize that?

THE WITNESS: A. The content or the handwriting?

Q. Do you recognize the handwriting?

A. Yes.

Q. Whose handwriting is it?

A. Mr. Lemas'.

Q. Are you familiar with the content?

A. The words I'm familiar with. The structure looks like some kind of a course outline.

MR. HARDING: Don't speculate.

MR. WELSH: Q. There appears in the right-hand side or the right-hand portion of one side some writing with the term Re at the top. I ask you to read that portion on the right-hand side and ask if you can recall what that subject matter is.

MR. HARDING: Mr. Welsh, he testified he's never read the document before. Now you're asking him to speculate on certain subject matter related to what someone else wrote. In addition, let the record reflect it's scribbled out. It's highly improper. All afternoon it's been highly improper. If you don't know what that relates to, Mr. Holt, don't speculate and don't answer.

THE WITNESS: I would definitely be speculating if I

answered.

MR. WELSH: Q. After having read it, does it refresh your recollection as to whether you ever saw that before or not?

THE WITNESS: A. Definitely not.

MR. WELSH: That concludes my examination.

EXAMINATION BY MR. HARDING:

MR. HARDING: Q. Mr. Holt, referring again to Exhibits I1, I2 and I3, I believe you testified that it was a posed picture; is that correct?

THE WITNESS: A. Yes.

Q. What do you mean a posed picture?

A. The equivalent was brought in, and we drew pictures on the board and stood in certain positions to simulate the workshop in progress.

Q. Was it a workshop?

A. No.

Q. Is there any reason that the same individuals are shown in all three photographs?

A. Yes.

Q. What's the reason?

A. We were available.

Q. What do you mean because they were available?

A. I don't understand.

Q. Well, available how?

A. Well, they needed people in the picture. It really could have been anybody. Manny and I was there trying to get the courses together. Phil was the one who asked the

photographer to come in, and Bob Garrow was probably in his office. So somehow the four of us had the picture.

Q. Now, of the documents that were produced, the three sets, a large box and a smaller box and another collection of documents, were those screened according to any direction that you received from me?

A. No.

Q. Why were those particular documents produced?

A. Because Mr. Neils from Honeywell asked me to find all the documents that related to the subpoena, and to bring them, and those are the ones I found.

Q. When you say related to the subpoena, did you have an understanding of what the subpoena related to?

A. It was written, the second and third page of my copy.

Q. Did you have an understanding of what that said?

A. Yes.

Q. What was your understanding?

A. There was a list of about six or seven different companies or people that were mentioned, and all documents related to that I brought.

Q. Did you follow my advice in producing documents?

A. No.

Q. Did you produce all documents that pertained to Compata and your company, Microcomputer Associates?

A. Yes, except for those from the last deposition that aren't in my possession.

Q. Now, earlier in your testimony you indicated that you

had some meetings with Dr. Tai before and after certain courses, where you chatted about where the industry was going. Do you recall that?

A. Yes.

Q. What did you mean by the term where the industry was going?

A. I meant the general trend of the industry and how fast microcomputers were being accepted by certain types of industry like consumer and industrial, conversation about that.

Q. Did it pertain to specific applications?

A. No.

Q. You testified earlier concerning the fact that you were not present during certain of Mr. Lemas' presentations during the courses. Do you recall that testimony?

A. Yes.

Q. Was there any reason why you were not present during portions that Mr. Lemas was giving his presentations?

A. Yes.

Q. What was that reason?

A. Manny had half the class and I had half the class. I was usually down the hall or next door below or above teaching the other half of the class.

Q. Now, you talked to Mr. Hal Feeney you indicated earlier.

A. Yes.

Q. What did Mr. Feeney tell you?

A. He told me that he can't give me any information.

Q. Did he tell you why?

A. Yes. He said it was proprietary to Intel.

Q. Did he mention anything about his lawyer?

A. Yes.

Q. What did he say?

A. He said any further information along this line I'd have to go through the Intel lawyers first.

MR. HARDING: That concludes my cross.

FURTHER EXAMINATION BY MR. WELSH:

MR. WELSH: Q. Did the people in the photograph Exhibit 11, 2 and 3 have anything to do with the course?

THE WITNESS: A. Yes.

Q. What did they have to do with it?

MR. HARDING: Mr. Welsh, we spent all afternoon discussing everybody's role in the course, and we talked about Dr. Tai at length. We talked about Mr. Holt at length. We talked about Mr. Garrow at length. We talked about Mr. Lemas at length. Now, do you want the entire day repeated? That was the scope of your question, sir. If that's the scope, don't answer the question.

MR. WELSH: Of course we don't want the entire day repeated.

MR. HARDING: Then please ask a question you want answered that has not already been asked and answered.

MR. WELSH: I would like to know what the people had to do with the course. He gave the impression that the only reason they were there was because they were available at the time.

MR. HARDING: For being in the picture?

MR. WELSH: Yes.

MR. WELSH: Q. But weren't they in the picture also because they had something to do with the course?

MR. HARDING: That's a different question, sir.

THE WITNESS: A. I would have to say no. It was a coincidence Mr. Lemas and I were there at the time. We weren't told the pictures were going to be taken, and we also had -- after the photographer set up, he said we needed one more person. He ran out and got Bob Garrow.

MR. WELSH: Q. All the people in the picture did have something to do with the course, didn't they?

THE WITNESS: A. Yes.

Q. Were other people available at Intel at the time?

A. Yes.

Q. Do you know how many?

MR. HARDING: Don't speculate.

THE WITNESS: A. I don't know an exact number.

MR. WELSH: Q. Do you have any approximation?

A. Eight hundred.

MR. WELSH: Mr. Harding and Mr. Rifkin, it's a little difficult to talk when you are making that kind of noise.

MR. HARDING: It was an accident, sir.

MR. WELSH: I wanted to comment that we believe that it's appropriate that if there are any documents that have come to your attention since discovery has closed that you have that relate to the reissue application or are material



1 to the application including questions of derivation and lack  
2 of independent simultaneous development, if you have any such  
3 documents, we believe you are obligated to make those documents  
4 known even though discovery in the lawsuit in Chicago may have  
5 been closed. We feel that that obligation arises from your  
admission to the patent office as attorneys even though as  
protesters. You are not under the same sanction as applicant.

MR. RIFKIN: Mr. Welsh, I will respond if I might.  
I take it when you say --

MR. HARDING: Excuse me, can we dismiss the witness?

MR. WELSH: Yes.

MR. RIFKIN: Mr. Welsh, in response to your state-  
ment, I assume you are referring to the duty of candor that  
Bally owes in the patent office to bring all relevant informa-  
tion to the attention of the patent office in connection with  
the re-examination of its patent. What you are saying is that  
you expect us to exercise our judgment to meet the same standard  
of candor with the patent office. I don't think there has  
ever been a question of my firm, myself, or the clients I  
represent fulfilling its duty of candor to the patent office  
in connection with this case or any other case.

Now, I cannot speak for you or your firm. You can speak  
for you or your firm or your client. But I have no doubt that  
anything that is relevant to this examination of the patent  
office which we're aware of will be brought to the attention  
of the patent office. I would request that you indicate on  
the record that you intend to bring to the attention of the  
patent office all of the relevant documents that you have in

your possession.

MR. WELSH: We have done so, and we shall do so. I would like to request that if there are any documents that relate to the subject matter of derivation or simultaneous development that have not been produced to us for whatever reason, including close of discovery, because there seems to be some question about the lack of continuing obligation to make production once discovery is closed, and so we're requesting that we be furnished with copies of any documents that you have that relate to the subject of derivation and simultaneous development; such as any documents from Intel's files.

MR. RIFKIN: I really am mystified by the innuendos in your statement that you have any basis for making such a request concerning the defendants having withheld anything. I don't know on what you base your information or your assumptions. But your statement really does not call for a reply.

MR. WELSH: We are not making any assumptions. We are just making a request.

MR. HARDING: I also want to supplement it and say I think the law is quite clear that defendants' and protesters' participation in the reissue proceedings does not relieve the applicant or diminish his duty of candor, and therefore, I don't want any reliance on protesters in placing all relevant materials in front of the patent examiner.

MR. WELSH: We're requesting that we be furnished with copies of any materials that you have that relate to the subject of that, whether or not you submit them to the patent

office.

MR. RIFKIN: Each and every document which we believe is relevant to those subjects we will call to the attention of the patent office and give you copies of.

MR. KATZ: Of course we're interested in referring to documents that would support patentability.

MR. RIFKIN: I just don't understand the purpose of your statement.

MR. HARDING: We'll take everybody's requests under advisement.

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RAYMOND M. HOLT